United Nations S/2003/674

Security Council

Distr.: General
2 July 2003

Original: English

Letter dated 25 June 2003 from the Secretary-General addressed to the President of the Security Council

I have the honour to transmit to you two reports, one from the United Nations Organization Mission in the Democratic Republic of the Congo (annex I) and the other from the United Nations High Commissioner for Human Rights (annex II), regarding the events which occurred in the Democratic Republic of the Congo in December 2002 and January 2003 in Mambasa, and on 3 April 2003 in Drodro, respectively.

I should be grateful if you would make this letter and the two reports annexed to it available to the members of the Security Council.

(*Signed*) Kofi A. **Annan**

03-40990 (E) 180703

Annex I

[Original: English]

Report of the Special Investigation Team on the events in Mambasa

31 December 2002-20 January 2003

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I. Political background

1. Mambasa is the last major town on the road to Beni, located at the intersection of two axes that the MLC and RCD-ML troops usually took when going from Bafwasende to the west and from Isiro to the north. Mambasa is a medium-sized town inhabited by 20,000 to 25,000 people who are engaged mainly in trading, notably the export of rice, timber and a small quantity of gold. As Mambasa was not affected by the conflict raging around Bunia and as it was not significantly looted in either 1996 or 1998, its inhabitants had maintained a fairly decent standard of living. Thousands of Ituri internally displaced persons had moved to Mambasa, which was then considered safer than the rest of the Ituri region.

2. Three factors motivated the taking of Mambasa: (a) providing unpaid MLC/RCD-N troops with an opportunity to loot; (b) the need to control the Mambasa airstrips; and (c) the opening of the road to Komanda which facilitated joining the UPC troops. Since the 2001 split within FLC — the alliance between MLC and RCD-ML — the two former allies have been fighting to delimit their respective areas of influence in the north-eastern Democratic Republic of the Congo. Limited offensives were followed by truces. RCD-ML failed in its attempt to advance up to Buta in December 2001. During the Sun City negotiations, in March 2002, the MLC forces took over Isiro and installed Roger Lumbala's RCD-N is Isiro. In August 2002, RCD-ML was defeated while trying to take back Isiro.

3. Since then, MLC has been using RCD-N as a cover to keep on advancing in the north-eastern Democratic Republic of the Congo. MLC and RCD-N have an integrated military structure as RCD-N has its own militia, but limited equipment. The key officers, as well as the artillery, have been provided by MLC. On the RCD-ML side, its poorly equipped army has been benefiting from irregular external supplies and limited support from various small Mayi-Mayi groups.

4. In September, Faradje and Watsa, in the north-eastern Democratic Republic of the Congo, came under the control of the MLC/RCD-N troops.

5. In October 2002, the ultimate aim of the offensive on Mambasa, called *Opération effacer le tableau*, was the control of the whole RCD-ML area, notably the Beni airport and the economically active area of Beni-Butembo. As RCD-ML was planning to establish an alliance with the Government of the Democratic Republic of the Congo, the control of the Beni airport was considered as a threat by MLC, as it would allow FAC to send troops to the east and thus open up a second front against MLC.[1]

6. In December 2002, MLC/RCD-N allied itself with Thomas Lubanga's UPC,[2] which had been fighting against RCD-ML in the Bunia area since August 2002. While MLC/RCD-N was advancing on the Mambasa-Beni axis up to 45 km from Beni, in conjunction with UPC, it took over Komanda and advanced as far as Erengeti, 50 km north of Beni. Although stemming from a different dynamic, the Ituri conflict was thus connected with the MLC/RCD-N offensive.

[1] A similar argument was used until June 2002 by RCD-Goma and the Government of Rwanda, when they envisaged attacking the RCD-ML area.

[2] In October 2002, UPC sent a reconnaisance team of 19 people to Mambasa while it was under the control of MLC/RCD-N.

II. Nature of the violence used during the incidents

7. Ituri Province is well known for the numerous human rights violations committed by all factions, who have also manipulated the ethnic differences of the region. With the Mambasa events the region witnessed a new scale of violence characterized by premeditated operations using looting, rape and summary execution as tools of warfare.

A. New level of violence

8. When the MLC/RCD-N forces took Mambasa on 12 October, a new level of violence was reached in the Congolese conflict. The human rights abuses committed affected the whole of Mambasa, both the rich and the poor. Moreover, after Mambasa, similar abuses were also systematized in the villages south of this town and between Komanda and Erengeti. Similarly, the number of rape cases — mainly young girls or women between 12 and 25 years old — rose to an alarming level. The same troops had been involved in human rights abuses in the past but the October-December abuses appear to be a systematization of practices that were restricted until then. In Isiro in August, abuses similar to those observed in the Mambasa area — exposure of mutilated bodies, notably the male genitals — were committed. In November, the RCD-N President, Roger Lumbala, issued a statement in Kampala mentioning that he had given orders to his troops to "emasculate any killed RCD-ML soldiers".

9. The massive abuses committed in the Mambasa-Komanda area can be placed into three different periods:

(a) The taking over of Mambasa characterized by massive rapes, as well as systematic lootings, destruction of health infrastructures and forced labour in the first half of October.

(b) At the end of October, as RCD-ML troops were counter-attacking, the first murders occurred, specifically targeting Nande people. Bodies were mutilated and left in public places as a strategy to terrorize the population. This continued until RCD-ML troops took back Mambasa at the end of October.

(c) At the end of November and in December, when MLC/RCD-N troops took back Mambasa and advanced towards Beni and their UPC ally. During their advance towards Beni from Komanda, systematic lootings continued, as well as frequent rapes. In addition to these abuses, there was systematic violence against Pygmies, forcing them to flee from the forest. Murders — both on the Komanda axis by UPC elements and on the Mangina axis by MLC/RCD-N — and cases of cannibalism were more frequent.

10. According to the testimonies received by the Special Investigation Team, the human rights abuses allegedly committed by the RCD-ML side were relatively few. A Pygmy centre was subjected to organized looting on the Beni-Mambasa axis and major looting occurred in Erengeti the day before the town fell to the MLC/RCD-N and UPC troops. Isolated cases of rape were also reported.

B. Premeditated violence

11. The way the violence was carried out tends to indicate that it was planned and coordinated. Before Mambasa was taken over, in October, three elements underlined the planned exactions:

(a) *Velo-taxi* drivers from Bafwasende were told to join the MLC/RCD-N troops advancing to Mambasa to carry the loot back to Bafwasende.

(b) While advancing on Mambasa, the officers promised their combatants four days of looting and rape if the town was captured.

(c) Speeches against the Nande people were frequent among the MLC/RCD-N troops, both because the RCD-ML President is himself a Nande as are the majority of RCD-ML officers, and because the combatants were told that the Nande people would be a fruitful target for looting. This led the combatants to systematically ask the Mambasa inhabitants about the whereabouts of this ethnic group.

12. During the offensive, several elements indicate that the operation was planned by the military leadership:

(a) In order to carry out systematic looting, collection points for the booty were designated in different areas of the town. From these points, the stolen items were carried to the four main military camps. People were forced to carry the goods. Those who resisted were beaten up.

(b) According to the testimonies obtained, no murder occurred before 24 October. If there was licence to loot and rape, killings were, however, forbidden by the officers. After the first RCD-ML raids on the MLC/RCD-N positions, some combatants reportedly told Mambasa inhabitants that "they [were] now allowed to kill". The same day, four inhabitants were murdered and their bodies exposed on the main roundabout.

(c) The RCD-N combatants had a special unit called *Effacer le tableau*, which was at the forefront of the abuses. Instead of isolating these combatants, the military leadership had integrated them into different MLC units. The military leaders, through their behaviour and speeches to the troops, were also providing a "licence to violence". The first murders in Mambasa on 24 October were organized and carried out by Colonel Freddy Ngalimu (then head of operations for MLC) and one of his officers. Most of the cases of cannibalism appear to be related to magical practices — absorbing the strength of the dead enemy — and to have been part of rituals aimed at maintaining unity among the combatants.[3]

13. This organized violence resulted from both internal factors and tactical motivation. Within MLC and RCD-N, as the soldiers are not paid, lootings appear as a substitute, as was the case in Bangui. Tactically, it has been a tool used frequently by the armed factions in the Democratic Republic of the Congo in a terror strategy adopted to trigger massive movements of civilians and to destabilize the opposing army.

[3] An independent source who used to live in Basankusu indicated that Colonel Ramses had a well-established reputation as a *feticheur* when he was in Basankusu in 1998-1999.

III. Methodology of the investigations

14. On 31 December 2002, a MONUC Special Investigation Team was established to investigate the Mambasa incidents, having received guarantees from RCD-ML that the investigations would be carried out in confidentiality. RCD-ML also assured the team that it would provide security. On 2 January 2003, the Team moved to Beni to investigate the incidents that had occurred in Mambasa and on the two axes towards Beni. The investigations focused on incidents of killing, mutilation, rape, torture and abduction.

15. The Special Investigation Team was composed of two human rights officers, one child protection adviser; two United Nations police officers, one political affairs officer and two public information officers. In Beni, the Team recruited three local language assistants.

16. During 20 days of investigation, the Special Investigation Team interviewed a total of 502 persons in Mangina, Oicha, Butembo, Erengeti and Beni, and met with local civil society and religious leaders. The interviewees were either victims or eyewitnesses of incidents that occurred in Mambasa, on the Mambasa-Mangina axis, and on the Mambasa-Komanda-Erengeti axis. From 16 to 19 January, three Team members were also in Mambasa interviewing a small number of victims who had stayed behind in Mambasa and Mandima. They assisted in identifying several possible mass grave locations both in Mambasa and Mandima. MLC soldiers commanded by Colonel Ramses were still in Mambasa when the Team was there, thus forcing the investigators to proceed cautiously and minimize their contacts with the local population.

17. The Special Investigation Team sent daily reports to MONUC headquarters in Kinshasa to inform the senior management of its findings. A preliminary report was submitted after the first week of investigations summarizing the main incidents that had occurred. On 11 January, the preliminary report was forwarded to the Security Council and to the United Nations High Commissioner for Human Rights.

18. On 19 January 2003, the Team completed its investigations in the Beni area and returned to Kinshasa to analyse the information obtained. A database with information on all individual cases was created.[4] On 22 January, a brief summary of the findings was prepared for embassies in Kinshasa and the Office of the United Nations High Commissioner for Human Rights. Meanwhile, the MLC authorities conducted their own investigation in Mambasa and detained 27 military, including the commander of the first operation in Mambasa, Colonel Freddy Ngalimu.

IV. Legal standards

19. Noted in this section are the relevant international and regional standards, which prohibited summary executions, killing, torture, rape, illegal arrest, looting and separation of children from their family. These obligations are defined in different human rights instruments, as well as the Geneva Conventions of 1949 and, most recently, the statute of the International Criminal Court, all ratified by the Democratic Republic of the Congo.

[4] Except for cases of looting and separation of family.

20. The State of the Democratic Republic of the Congo has ratified the International Covenant on Economic, Social and Cultural Rights (in November 1976); the International Covenant on Civil and Political Rights (in November 1976); the International Convention on the Elimination of All Forms of Racial Discrimination (in April 1976); the Convention on the Elimination of All Forms of Discrimination against Women (in October 1986); the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (in March 1996); the Convention on the Rights of the Child and its two optional protocols (in September 1990, and in November 2001 for the protocols); the African Charter on Human and Peoples' Rights (in July 1987); the African Charter on the Rights and Welfare of the Child (in March 2001); the Geneva Conventions of 1949 and the Optional Protocols (Optional Protocol II in 28 March 2001) and the statute of the International Criminal Court (in March 2002). Those ratifications create for the State of the Democratic Republic of the Congo the legal obligation to abide by all dispositions included in the ratified international and regional instruments.

A. Arbitrary executions, killings of civilians

1. International human rights law

21. International human rights law in its different instruments recognizes the right to life inherent in all human beings and prohibits arbitrary killings (article 3 of the Universal Declaration of Human Rights, article 6 of the International Covenant on Civil and Political Rights, article 4 of the African Charter on Human and Peoples' Rights, article 6 of the Convention on the Rights of the Child and article 5 of the African Charter on the Rights and Welfare of the Child).

2. International humanitarian law

22. The Geneva Conventions of 1949 and Additional Protocol II, after stating that civilians have to be protected and treated with humanity, prohibit both violence to life and person and arbitrary executions of civilians (common article 3 of the Geneva Conventions, and article 4 of Additional Protocol II).

23. The same Protocol in its article 13 recognizes general protection for all civilians during military operations. The civilians should not be victims of any kind of attack, nor should they be subjected to threats that could provoke terror among the civilian population.

3. Statute of the International Criminal Court

24. The statute of the International Criminal Court defines as crimes against humanity (article 7, para. 1 (a) and (b)) and war crimes (article 8, para. 2 (c) (i)) all types of widespread or systematic murder and extermination of civilians.

B. Torture, mutilation, rape, beatings

1. International human rights law

25. The prohibition of torture, inhuman and/or degrading treatment, including sexual violence, is stated in the Universal Declaration of Human Rights (article 5),

the International Covenant on Civil and Political Rights (article 7); the Convention on the Rights of the Child (articles 19, 34, 37 and 38); the African Charter on Human and Peoples' Rights (article 5); and the African Charter on the Rights and Welfare of the Child (article 27).

2. International humanitarian law

26. The Geneva Conventions of 1949 and Additional Protocol II (respectively article 3 and article 4) prohibit cruel and degrading treatment, torture, humiliating and degrading treatment and rape.

3. Statute of the International Criminal Court

27. The statute of the International Criminal Court defines as crime against humanity (article 7, (l) (g)) and war crime (article 8, (2) (b) (i) and (ii)) any widespread or systematic torture, rape or other forms of sexual violence against civilians.

C. Arbitrary arrest, detention, abductions

1. International human rights law

28. International human rights law prohibits arbitrary arrest and prolonged detention in the Universal Declaration of Human Rights (articles 3 and 9); the International Covenant on Civil and Political Rights (article 9); the Convention on the Rights of the Child (articles 37 and 38); and the African Charter on Human and Peoples' Rights (article 6).

2. International humanitarian law

29. The Geneva Conventions of 1949 (article 3) and Additional Protocol II (article 4) prohibit hostage-taking and arbitrary arrest.

3. Statute of the International Criminal Court

30. The statute of the International Criminal Court defines as crime against humanity (article 7, (2) (a)) and war crime (article 8 (c) (iii)) any widespread or systematic deprivation of physical liberty in violation of fundamental rules of international law.

D. Forced labour, forced recruitment of minors, sexual slavery

1. International human rights law

31. Slavery and servitude in all their forms, including forced labour are strictly prohibited by international human rights conventions (article 4 of the Universal Declaration of Human Rights, article 8 (3) (a) of the International Covenant on Civil and Political Rights).

32. The Convention on the Elimination of All Forms of Discrimination against Women, in its article 6, demands that States parties take all appropriate measures to suppress all forms of traffic of women and the exploitation of prostitution.

33. Article 32 of the Convention on the Rights of the Child states that "States Parties recognize the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development".

34. The Optional Protocol to the Convention on the Rights of the Child prohibits the recruitment and/or use of minors under 18 in armed conflicts.[5]

35. Article 15 of the African Charter on the Rights and Welfare of the Child provides: "Every child shall be protected from all forms of economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's physical, mental, spiritual, moral, or social development".

2. International humanitarian law

36. Additional Protocol II in its article 4 (2)(f) prohibits any type of slavery and recognizes special protection for children who among others (article 4 (3)(c)) should not be recruited in or take part in hostilities.

E. Looting, destruction

1. International human rights law

37. International human rights law in its different instruments recognizes the right to property and the right not to be deprived of one's property (article 17 (2) of the Universal Declaration of Human Rights, article 14 of the African Charter on Human and Peoples' Rights).

2. International humanitarian law

38. Additional Protocol II (article 4 (2)(g)) prohibits looting of private buildings as well as the destruction of medical structures (article 12 (1)). Additional Protocol (article 12 (l)) states clearly that medical facilities should be respected and not be subject to any type of attack.

F. Family separation

1. International human rights law

39. International human rights law recognizes the right of the child not to be separated from his parents except for the protection of the well-being of the child (article 9 (1) of the Convention on the Rights of the Child, articles 18 and 19 of the African Charter on the Rights and Welfare of the Child).

2. International humanitarian law

40. Additional Protocol II (article 4 (3)(b)) stipulates that children should receive adequate treatment and assistance during armed conflicts, among other necessary

[5] The Cape Town principles define as "child soldier" any person under 18 years of age who is part of any kind of regular or irregular armed force or armed group in any capacity, including but not limited to cooks, porters, messengers and anyone accompanying such groups, other than family members. The definition includes girls recruited for sex purposes and for forced marriage.

measures to be reunited with their family members, and that those under 15 years old should not be recruited into the armed forces.

V. Human rights abuses committed by the MLC/RCD-N and UPC military forces

41. A total of 170 statements concern cases of looting of private property that occurred in and around Mambasa and cases of family separation where there was no indication of abductions. The fate of many separated from their families is likely to be clarified once the displaced are able to return to their villages. At that time it will be possible to determine those who are still missing with more accuracy. The Team has drafted a list of such cases to facilitate family reunification.

42. The following sections are based on the analysis of the information gathered from the remaining 332 interviews. Of the total an important number of victims are children of all ages, who were executed, raped, ill-treated, abducted and forced to work for their abductors. These cases have been analysed in detail and a separate section (section B) is dedicated to incidents involving children.

A. Human rights violations in general

1. Killings and summary executions

43. A total of 173 killings and summary executions of both adults and children in Mambasa-Komanda and the two axes towards Beni were reported to the Special Investigation Team. Of these, 66 victims were originally from Mambasa, 53 from Komanda and 54 from a variety of other locations[6] on the two axes towards Beni. Most of the victims from Mambasa and neighbouring areas were reportedly killed by MLC/RCD-N soldiers, whereas the majority of victims from Komanda were reportedly killed by UPC elements. The killings occurred mainly at the end of October, and during a second period encompassing the end of November to the end of December when the parties signed a ceasefire agreement. The majority of the killings in the villages on the axes to Beni occurred between the end of November and the end of December. The incidents mainly targeted the Nande population to which Mbusa Nyamwisi, the President of RCD-ML, belongs, and later also Pygmy populations who were accused of assisting APC, the military wing of RCD-K/ML.

44. The reported cases included 12 incidents of cannibalism. The victims were both Nande and Pygmy. According to T.R., who was arrested by MLC troops in Mambasa and forced to follow them on their advance to Mangina, Colonel Ramses in his daily exhortation to his soldiers quoted the Old Testament: Deuteronomy chapter 20, verses 13 to 17: "And when the Lord thy God hath delivered it into thine hands, thou shalt smite every male thereof with the edge of the sword. But the women, and the little ones, and the cattle, and all that is in the city, even all the spoil thereof, shalt thou take unto thyself; and thou shalt *eat the spoil of thine enemies*, which the Lord thy God hath given thee." In French the word "spoil" is translated as *dépouille*, which also means corpse.

[6] Erengeti, Byakato, Teturi, Nyankunde, Otomanbere, Mungwalu, Lolwa, Alima, Some, Epulu, Makumo, Mandima.

45. B.C., a 43-year-old resident of Bayenga, a village located between Wamba and Ni Nia, witnessed a case of cannibalism. He related his experience to the Team as follows: "I had been taken hostage by APC soldiers in September but was able to escape and hide in Wamba. On the first day, some friends in Wamba hid me. On the following day, Wamba was taken by ALC soldiers coming from Isiro. Some people said that these forces were accompanied by military from the Central African Republic. Commander Wende whom I knew from before promised to assist me to leave the region since APC soldiers were looking for me. I stayed with him in their camp awaiting authorization to leave. While I was waiting, I saw ALC soldiers with sexual organs on their rifles and others grilling a thigh. I am not sure of the exact dates but all this happened during the month of October. I think that the soldiers from Central African Republic committed these acts."

46. The following cases are a representative sample of killings and summary executions reported by eyewitnesses and family members.

(a) Mambasa

47. On 26 October 2002, after an APC offensive, a group of armed men dressed in military clothes with APC inscriptions and speaking Swahili asked a few persons from Mambasa, who had just returned from the forest, about their opinion of the *effaceurs* soldiers. The inhabitants thought that the city had already been taken by APC. They gave an account of the abuses committed by ALC soldiers and expressed their opposition to MLC/RCD-N authorities. A certain Marcel Bagaya even asked that Colonel Freddy Ngalimu be handed over to them so that they could take revenge. He said they would mutilate and execute him just as he had done to their people. A group of 13, including Marcel Bagaya, Joseph, chief of the zone Metindi, Daniel Kaubirwa, a farmer, and François Babasoki, who spoke out against the *effaceurs*, were taken to Colonel Ngalimu, who became very angry when he heard what the people had said against him. He reportedly stabbed all four in the back and handed them over to his soldiers for torture and execution. Among the soldiers were Lieutenant Jose Zima; his deputy, Major Bugera; his aide de camp Kasero, and Commander Mbale. Daniel had his ear cut off and put in his mouth; François had an arm cut off and a piece of his arm was put in his mouth; Joseph was forced to eat his identity card. Three of them were later executed by gunshot by Lieutenant Jose Zima and François died of his wounds. All the victims were buried next to the church in Anourite. The Special Investigation Team interviewed 18 persons in relation to this incident, either eyewitnesses or family members of the victims, and also located the place where they were buried. This execution represents the beginning of a series of executions targeting mainly the Nande population.

48. At the end of October, while their parents were at work, eyewitness K.K. and his brother and sister, all of Nande origin, escaped from Mambasa with the help of their neighbours. Pygmies told the family that their mother had been captured by soldiers called the *effaceurs* while she was looking for food. The father was also captured and killed as he looked for his wife with one of his sons. The boy, who was captured, said that the soldiers asked his mother to prepare food with his father's flesh. Before any act of cannibalism occurred, the soldiers told the boy to escape. He went back to find the others and they all left with 10 Pygmies for Beni.

49. At the end of October, A.N. heard gunshots in a forest near Mambasa and went closer to see what was happening. He observed how his 37-year-old brother M.V.

and four other persons, 60-year-old N.F., 30-year-old M.K. and the 3-year-old infant S. were shot and mutilated by soldiers at their base. He reported that the soldiers took the heart of one of their victims and sucked blood from it. He left the place horrified.

50. At the end of October, M.G. and his 57-year-old father, A.P., were taken by the *effaceurs* during their escape from Mambasa. A.P. reported that ALC soldiers killed his father; they cut his chest open, removed his heart, cooked it and ate in front of him.

51. Also at the end of October, N.M., his wife and his parents were abducted by *effaceurs* soldiers near Mambasa. The soldiers killed his 60-year-old father while he was trying to prevent his daughter-in-law from being raped. According to the eyewitness, who is the son of the victim, they tied his hands behind his back, shot him in the neck and slit his throat in front of his family members.

52. At the end of November, ALC soldiers took a Pygmy who worked as a gardener for the witness, M.A., from a place near Mambasa and killed him. Later, his body was mutilated and his organs were cooked.

53. On 26 November, two children aged 16 and 8 years saw the *effaceurs* soldiers take a 22-year-old man into a house next to theirs in Mambasa.[7] The soldiers looted the house and forced the young man to carry the loot. The eyewitnesses saw them order the young man to set fire to the house after closing all the doors and killing all the members of the Musavuli family, of Nande origin: the parents and their four children, who were 1, 9, 12 and 16 years old. The 22-year-old man was also shot dead after he completed his task. The soldiers then went to the house of the eyewitnesses, looted it and asked the children to leave.

54. At the end of November, A.M. witnessed the execution of G.M. a 50-year-old Nande, by *effaceurs* soldiers in Mambasa. The soldiers reportedly cut off the right leg of the victim and forced his wife to cook it and taste it. The soldiers themselves ate a piece of the cooked leg.

55. At the beginning of December, N.K., an 18-year-old student, and the 12-year-old K.F. witnessed around 25 ALC soldiers attacking and killing civilians. They reported that their group of 13 persons was forced to sit on the floor and that three men, two women and one Pygmy were selected for execution. After executing them, the soldiers pulled out their hearts and subsequently forced the prisoners to taste the human flesh. The commander of the *effaceurs* group was a woman and her deputy's name was Pascal.

56. Around 23 December, the witness, a 15-year-old Nande who had been displaced from Bunia to Mambasa, left Mambasa with other people because of conflicts with other groups of displaced persons. While they were leaving the town, they met a group of around 12 UPC soldiers carrying guns, knives, machetes and rocket launchers. The UPC soldiers took a pregnant woman, opened her belly and took out the foetus. The soldiers said that they would grill the mother but the eyewitness did not witness this act. The group was then forced to sit in the sun for two days.

[7] Incident also referred to in paragraph 131.

(b) Komanda

57. Around 14 October 2002, UPC soldiers accompanied by Hema militia came to the house of I.K., a young Bira, and attacked his father and his two brothers. His father was shot and his younger brother was stabbed to death. His other brother was taken away to carry the loot and never came back. I.K. was the only one who was able to escape to Erengeti.

58. When UPC soldiers attacked Komanda in October, N.G. was able to escape and walked to the village of Sokota where he waited for his brothers. Other people coming from Komanda told him that his six brothers, 35-year-old D.A., 27-year-old A.G., 24-year-old N.G., 23-year-old M.G., 20-year-old S.A. and 17-year-old N.G. had been killed by UPC soldiers accompanied by Hema militia.

59. In October 2002 — the witness cannot recall the exact date — N.N., a 16-year-old Bira, escaped from N[illegible]nkunde and walked in the direction of Komanda with her family. They were stopped by armed UPC soldiers who proceeded to execute her entire family comprising her 42-year-old mother D.I., and her 12 sisters and brothers. She was the only one to escape.

60. Also in October, Hema militiamen and UPC soldiers began to terrorize the Nande people. They called the four children of K.M., a 43-year-old Nande living in Komanda, and her son-in-law to participate in a meeting. When they went to the place where the meeting was supposed to be held they were killed by machetes.

61. One Sunday in December 2002, the eyewitness, a 14-year-old Nande, tried to flee with his family, a Protestant priest and other displaced persons, from Mungwalu to Komanda. When they arrived at the crossroads of Komanda, soldiers of Gegere origin stopped them. The soldiers said to the priest, M.N., who was in his ceremonial dress: "Priest, are you making fun of us?", and intimidated the others. The soldiers had red eyes, and they were singing and dancing. They slaughtered the priest, cut him in pieces, removed his heart and liver and cooked them. The rest of the group had to pay money or to eat the human flesh to be allowed to leave. Another four men, three women and three children were killed. A pregnant woman had her chest opened and the foetus taken out because she refused to eat the human flesh. The soldiers stated that they wanted to exterminate the Nande people because they were the ones who had been killing their fellow fighters.

(c) Other locations

62. In October 2002, *effacer le tableau* soldiers captured Epulu and requested the population to come out from hiding in the forest. K.S., an 18-year-old Mbuti and his brother-in-law G., also Mbuti, were captured by the soldiers in the forest. G. was killed, beheaded and cut into pieces. The pieces were later put in a pan for cooking. K.S. was able to escape when the soldiers sent him to look for firewood.

63. On 28 November, the *effaceurs* soldiers abducted P.M., a 25-year-old Nande, and his brother, P.M., from Nyakatu. The soldiers called themselves *Katagnama* (cutter of meat). They killed his brother and cut him into pieces. P.M. was able to escape when they sent him to fetch water for cooking.

64. At the end of November, S.A., an 8-year-old Alur girl, and her 10-year-old brother U.I. witnessed the killing of their parents by *effaceurs* soldiers in their field

in Lolwa.[8] The soldiers took the parents, R. and U., forced them to go into a wooden shed and set it on fire. The children were allowed to go. A neighbour took them to the Erengeti camp for internally displaced persons.

65. Also at the end of November, M.K., a 19-year-old Bira, his mother and his brother were fleeing with a group of displaced persons from Mungwalu to Lisei when *effaceurs* soldiers stopped them. There were around 100 soldiers in military and civilian clothes, including a few female soldiers. The soldiers said they were looking for Lendu and Nande people and asked M.K.'s mother to state what ethnic group she belonged to. She said she was Ngiti but one of the soldiers, called Bitamasire, who was from Bunia near Radi Candip, said that she was lying and that she was a Bira. The soldiers killed his mother and his younger brother. He was himself forced to follow them to carry the loot with several other men to their military camp in Luna. On their way they met a civilian Hema group who defeated them. At that moment, a group of APC soldiers attacked. During the fighting the men managed to escape.

66. On 2 December, K.M., a 40-year-old Nande from Mungwalu, was told by one of her children while she was working in the field that UPC soldiers were in their house. She left her son in the field and ran to the house where her husband and seven of her children were. She saw six UPC soldiers with one commander. They had already killed her husband P.M., a 42-year-old Nande, opened his chest and removed his heart and liver. K.M. was told to run without turning back. The soldiers forced the children to stay in the house after undressing them, poured petrol over the house and set it on fire. The children were able to escape through a window. The soldiers said they were looking for Nande people.

67. In December, B.D., a 15-year-old Bira, was at home in Nyankunde with her grandfather and her two small brothers when four soldiers identified by B.D. as Colonel Kandro, Kakore, Koteza and Djuna, entered their garden. The eyewitness was able to escape while the soldiers shot and killed her 74-year-old grandfather, T., and slaughtered her two brothers, the 4-year-old K. and the 5-year-old S., with machetes. When she was running away the same soldiers held her with another girl, M., a 17-year-old Bira. The soldiers raped M. but released B.D. thinking that she was a Nande.

68. Also in December, N., a female Pygmy from Some, located 26 km from Mambasa, was reportedly killed with her sister under a palm tree in Some by the *effaceurs* soldiers. The chief of the Pygmy community in Mangina reported the case to the Special Investigation Team.

2. Illegal arrest and abduction

69. Both during the events of October and from the end of November to the end of December 2002, the MLC/RCD-N/UPC soldiers abducted males and females on their way: males to carry the loot and to be used as workers and girls and women for sexual abuse. The soldiers of MLC/RCD-N also illegally arrested and unlawfully detained for several days three priests, one Italian and, two Congolese, who had come to Mambasa to celebrate Christmas.

[8] Incident also referred to in paragraph 130.

70. The Special Investigation Team identified a total of 80 victims of forced disappearance.[9] Of the total, 39 victims had been abducted in Mambasa in October and December; 9 in Nyankunde in December; 12 in Erengeti in December; 4 in Byakato in December and the others in different villages on the two axes between Mambasa and Beni. A few males who were missing in Erengeti were discovered by the Team on 18 January in Mandima during their visit to Mambasa.

(a) Abductions

71. The following cases are a representative sample of forced disappearance cases reported by eyewitnesses and family members.

72. On 12 October 2002, N.N., a 36-year-old employee of the local administration, witnessed how MLC/RCD-N entered the town and proceeded to loot and rape girls and women. Around 4 p.m. they also abducted his sister V.M. at the crossroads of the town. The family never saw her again.

73. On the same day, in Mambasa and in the forest to which the population had fled, 17-year-old E.I., 38-year-old M.K., 22-year-old M.I., 13-year-old A., 27-year-old L.N., and 33-year-old K.M. were abducted by the MLC/RCD-N soldiers, in the presence of their family members, probably to be sexually abused later. The number of females taken by the soldiers is much higher but the witnesses were not able to identify them.

74. At the end of October, 25-year-old G.P. and 38-year-old K.S., both male nurses, were abducted by the *effaceurs* soldiers to work for them. Their wives were present at home when the soldiers came and took them by force.

75. During October, 23-year-old K.R., 26-year-old O.Y., 24-year-old O.M.C., 23-year-old K.K., the young B.T., 38-year-old K.F., a couple, B. and D., and 38-year-old D.K., all of Nande origin, were abducted by the soldiers mainly to carry the loot and munitions. Most of them left with the soldiers towards Epulu and Isiro.

76. Between the end of November and the end of December, the young M.T., 25-year-old A.K., 55-year-old T.N., 50-year-old K.J., 39-year-old D.P., 17-year-old M.C., 31-year-old M., 22-year-old C. and 25-year-old S.K., together with his 11-year-old brother T.K., and the young A.S., were abducted by soldiers to carry the loot and the munitions. Some of them left carrying their burden towards Mungwalu and Badisende.

77. In December, 40-year-old K.N. and his brother M.M., a 38-year-old Nande, working for the Foundation for the Protection of Okapi, were abducted in Epulu by *effaceurs* soldiers. Their 47-year-old brother, I.K. witnessed the abduction.

78. Around 24 December, 26-year-old N.S., 15-year-old J.L., 17-year-old K.D., 16-year-old D.G. and 20-year-old K.L., together with 22-year-old K., 40-year-old P.G. and 82-year-old S.M., were abducted in Erengeti by the *effaceurs* soldiers to carry the loot and munitions from Erengeti to Mambasa. In Mandima the Team found another six victims who had been abducted in Erengeti.[10]

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[9] The witnesses saw several other males and females who had been abducted by ALC, most of whom they were not able to identify. This report does not include the victims who were not identified.

[10] See also paragraphs 99 and 107.

(b) Illegal arrest/unlawful detention

79. The MLC/RCD-N soldiers arrested illegally and detained unlawfully three Catholic priests considered to be "political priests" working for APC forces; F.R. and T.F. were arrested together in Mambasa, while S.N. had been arrested a few days before but eventually met the others on 25 December 2002 in Lwemba.

80. F.R., from the parish of Wamba, was in Mambasa during the visit of the Team. He related his experience as follows: "On the afternoon of 23 December 2002, we arrived with T.F. in Mambasa, after four days of travelling from Wamba. We had already taken a written authorization from General Ndima Constant, based in Isiro, to be able to go to Mambasa for Christmas celebrations. When we arrived in Mambasa we presented our letter to the soldiers. We reached the mission, which had been destroyed and completely looted. The soldiers were the only occupants. We tried to organize ourselves for the night and T.F. went to look for food. He was arrested by the military and taken to a camp in Butiaba, 5 km from Mambasa. Later, another soldier came to tell me that I had to join him for security reasons. We slept in the camp with the soldiers; it was only the next day we understood that we were prisoners. On 25 December, they told us to pack because we had to join the soldiers in their advance towards Beni. After walking 60 km, we arrived in Lwemba where we met Colonel Ramses Masamba, officer in charge of operations. We also found S.N. who had been arrested before us. There they told us that we had been arrested because we were political priests who had informed APC of their first advance on Mambasa. The accusation was followed by the requisition of all our belongings. We remained in custody in Lwemba until 29 December and then left for Byakato. On our way, we saw the first dead bodies that were mutilated. In Byakato, we were put in a room. Next to our room, there was a tent with 11 wounded soldiers and one APC soldier, Mafuta, also with three wounds. On 30 December we left Byakato for Makumu, 23 km from Mangina. We saw other corpses on the road, which had been subjected to the same treatment of mutilation. We stayed in Makumu until 2 January and witnessed the military clashes between MLC/RCD-N and APC on 31 December and 1 January. On 1 January, the soldiers arrived with the head of a victim and some of them took pictures with the head. On 3 January we initiated the withdrawal towards Mambasa. On 5 January the MONUC military observers came by car and freed us from our aggressors."

3. Sexual abuse, torture and ill-treatment

81. A total of 102 cases of violation of physical integrity have been documented by the Special Investigation Team, with 69 cases of witnessed rape and 33 cases of cruel and inhuman treatment.[11]

82. All of the interviewees confirmed that there had been widespread rapes of women and girls. However, very few victims came forward to recount their experiences. This can probably be attributed to cultural taboos and fear of stigmatization. The majority of the rapes were committed during the first attack on Mambasa in October. Only 14 cases occurred during the period between the end of November to the end of December. Only seven cases were reported directly by the

[11] Several other girls were abducted by the ALC soldiers but their cases are not listed here as rape cases as there were no witnesses. However, their cases are included in the section on forced disappearance.

victims themselves; 12 cases were reported by family members and the rest by other witnesses. Several of the rape victims had first been abducted by the soldiers.

83. The cases of ill-treatment concern mainly young boys and men who were forced to carry the loot and were often whipped. Therefore of 33 cases only 11 occurred out of Mambasa, mainly targeting males who were forced to carry the loot when the soldiers were withdrawing from Erengeti towards Mambasa. Several of these males did not come back; consequently, their cases are also considered as cases of forced disappearance. The following cases are a representative sample of forced disappearance cases reported by eyewitnesses and family members.

(a) Rape cases

84. The children of a teacher working in Mambasa, 17-year-old J.N. and her 20-year-old sister, were captured and subsequently raped over a period of two days by the ALC soldiers in their military camp. A colleague of their father reported the case to the Team.

85. During the attack in October 2002, 22-year-old S. was hiding with her husband when the soldiers discovered them. They forced her husband to carry the loot and asked her to accompany them. When they arrived at the camp, they sent the husband back but kept S. for three days during which time they sexually abused her.

86. During the attack in October, Alpha Balume, a 26-year-old ALC soldier, came to the house of the victim in Teturi and forced her to follow him. He took her by bicycle to Mambasa to join the troops. He told her that he was an ex-APC who had joined ALC. In Mambasa he took her to a farm where she met seven other girls, some of them she already knew, all abducted for sexual abuse by APC soldiers. The abducted girls were visited by male soldiers based in zones where there was no fighting. The victim stayed there until the end of October, when APC attacked. The military took all the girls to Commandant Mulendo, chief of operations of APC, who reportedly freed some of them and took along some others of their free will. The Team interviewed the victim at Mulendo's residence in Beni, where she stated that she was willing to remain until it was safe for her to go back to Teturi.

87. During the second week of October, 19-year-old L.T. was raped throughout the night in Mandima by an ALC soldier nicknamed "Tia Mosapi", reportedly the bodyguard of Freddy Ngalimu. A friend of hers, 22-year-old A., was raped by another soldier and abducted.

88. Around 12 October, ALC soldiers forcefully entered the house of the eyewitness in Mambasa. Two soldiers raped his wife and the others forced him to rape his own 13-year-old sister.[12] During the second attack, in November, the ALC abducted his mother-in-law and his sister for sexual abuse.

89. During the month of October, S.S., the 22-year-old wife of the witness, was chosen specifically for Colonel Ngalimu while her husband was out of town. Three of the Colonel's bodyguards guarded her, her two children as well as H.S.M., a 14-year-old niece. During the APC attack the Colonel withdrew with the two women to Bafwasende. The victim was able to escape with her two children on the road to Kisangani. She called her husband from Kisangani and related the sequence of the events.

[12] Incident also referred to in paragraph 121.

90. On 26 October, N.M. witnessed the rape of his wife, 30-year-old N., by 18 soldiers, from 10 p.m. to 5 a.m. the following day. His father who was also present was killed while trying to help his daughter-in-law. The same soldiers abducted the witness' mother. The rest of the family left for Teturi.

91. Towards the end of November, J.O. witnessed the rape of 35-year-old H.K. and her three daughters, 18-year-old M.K., 16-year-old A.K., and 14-year-old C.K., by the *effaceurs* soldiers who had beaten up the uncle because he was trying to protect the victims. The eyewitness was spared because she was nine months pregnant.

(b) Cruel and inhuman treatment

92. During October 2002, M.L., a 25-year-old male, was taken together with 35-year-old P.P. by the *effaceurs* soldiers to carry the loot from Mambasa to Mungebere. M.L., who reported the case, witnessed the beating of P.P. during two days by the soldiers in Mandima.

93. On 12 October 2002, M.M., a Protestant priest, witnessed the cruel treatment of M.N., an 18-year-old Nande, by the ALC soldiers. The young boy was beaten with a hammer and the butt of a rifle because he was not able to open the door to take out his bicycle to give to the soldiers.

94. During October, according to his own testimony, O.B.L., a 63-year-old civil servant of the municipality of Mambasa, was forced to carry a 60-kg bag and was whipped whenever he fell down. He was later admitted to the local hospital for one week because of his delicate health condition caused by fatigue and ill-treatment.

95. Also in October, C.T., a 35-year-old Nande from Mambasa, was discovered by the ALC soldiers in the forest where she was hiding. The soldiers questioned her about her ethnic affiliation and the whereabouts of her husband. They then whipped her and tied her hands. She was later released.

96. On 23 December, K.M.P., a 15-year-old Nande student, was trying to escape together with a group of internally displaced persons from Mambasa. They were stopped by a group of Hema dressed in civilian clothes. The Hema killed one of the women of the group. They then opened the head of a man and poured battery liquid in the wound in the presence of the members of the group, including the young K.M.P. The group was held hostage for three days until the Mayi-Mayi attacked the town.

97. During December, M.L., a 35-year-old Nande, witnessed the beating of her mother and the torture of her Nande brother-in-law, D.D., who had his sexual organ mutilated by the *effaceurs* soldiers. The soldiers left with the sexual organ of the victim in their hands as a trophy.

98. On 26 December, K.M., a 22-year-old Nande, and M.A., his Nande friend, were discovered in the forest where they had been hiding after the ALC attack on Erengeti. The soldiers tied them up and took them with another man whom K.M. could not identify to their Commandant. In the camp the victims were seriously beaten by different ALC soldiers and forced to undress. They were kept in the military camp from 26 to 28 December. They were then forced to carry the loot with the soldiers as they withdrew. The incident was reported to the Team by one of the victims himself, K.M., who is back in Erengeti. The victim also stated that the

battalion that was in Erengeti was called Dragon and it was under the Command of Jean Lambert Lekendo.

99. On 26 December, the *effaceurs* soldiers during their withdrawal towards Komanda abducted several men from Erengeti to carry the loot and the munitions up to Mandima. The Special Investigation Team found six of them — 36-year-old K.M., 20-year-old K.D., 18-year-old M.M., 26-year-old M.M., 23-year-old M.A. and 41-year-old K.B. — in Mandima during their visit on 17 January 2003. All were in a very poor state of health after having carried heavy loot and munitions for over 200 km. They related that they were often badly treated and forced to walk with no rest. In Komanda, they witnessed the killing by the UPC soldiers of a 55-year-old Bira who could no longer walk. They also confirmed that the Commandant of the group was Jean Lambert Lekendo.

100. On 29 December, Mafuta Gregoire, a 34-year-old APC soldier, was arrested by ALC soldiers while he was on a reconnaissance mission in the forest, 15 km from Makumo. According to his own testimony given to the Special Investigation Team in Beni, he was arrested by one company of ALC. They beat him up and wounded him on his left shoulder with a bayonet and on his head and left arm with a knife. They then sucked the blood coming from his shoulder wound. They transported him to Byakato and abandoned him with his wounds for four days in a room. They took him out on the fourth day and transported him towards Makumo. The arrested soldier also saw the three priests who were taken in Mambasa and a Nande woman with one child. Later, the soldiers arrived with the head and sexual organ of one of their victims and questioned them on the identity of the person. He was able to escape on 4 January 2003 when the MONUC military observers arrived and asked them to respect the ceasefire agreement. He claimed to have identified one platoon of UPC soldiers accompanying the MLC/RCD-N soldiers.

4. Forced labour

101. Both in October 2002 and between the end of November and the end of December, the MLC/RCD-N soldiers forced the inhabitants of Mambasa and villages on their way to work for them, carrying the loot or munitions, working as cook, cleaner or nurse with no payment. The total number of victims met by the Special Investigation Team who had been subjected to forced labour is 35, not counting all those male victims of forced disappearance who never came back; 16 victims were taken in Mambasa in October, 12 victims were taken in Erengeti in December and the remainder were taken in different villages on the two axes from Mambasa to Beni. The following cases are a representative sample of forced labour cases reported by eyewitnesses and family members.

102. On 12 October, 28-year-old S.P. was taken by the ALC soldiers. He was forced to work as a cook, cleaner and carrier all day without any pay. He was able to escape on their way to Beni.

103. On 26 October, M.B., the warehouse manager of the Catholic mission in Mambasa, was at work when the ALC soldiers took his wife and five children, forcing them to carry the loot. The soldiers came back later to free the first victims and then abducted his son. The boy managed to escape and fled to the forest to trace the family. They all fled together to Mangina.

104. During October, 39-year-old M.V., 38-year-old P.J.D. and 56-year-old K.K. were forced to work for the soldiers near Mambasa, in their military camp.

105. During the early part of December, 19-year-old F.C. and 18-year-old S.I. were forced to carry the loot for the ALC soldiers from Mambasa to Epulu.

106. On 23 December, 24-year-old N.B. was forced to carry the munitions of ALC from Komanda to Erengeti. He managed to escape during the night of 27 December.

107. On 25 December, 26-year-old M.M., 23-year-old M.A., 41-year-old K.B., 36-year-old K.M., 20-year-old K.D. and 18-year-old M.M. were forced to carry loot from Erengeti to Mandima. The Special Investigation Team met them in Mandima where they had been released. They were not able to go back because of severe wounds on their feet.

5. Systematic looting of social structures

108. When the MLC/RCD-N soldiers invaded Mambasa on 12 October, they looted every house and social structure as in a "vaccination operation", according to their own definition. The Special Investigation Team visited the medical facilities in Mambasa and Mandima as well as the administrative buildings, which were completely looted. The Catholic church, the Protestant church and the mosque were also subjected to looting and destruction. All of the food stock of the Catholic mission was looted. The looting continued even after the ceasefire. The solar panels of the mission were stolen around 15 January and they were seen by the Team at the ALC military camp near Mambasa during the meeting with Colonel Ramses. One soldier told a local priest that they had the authorization of their military command to loot for the first four days.

109. On their way to Beni, the MLC/RCD-N soldiers continued the looting of private residences and social structures in each locality and finally in Erengeti. They forced the inhabitants of Erengeti to carry the loot and munitions from Erengeti to Mambasa.

110. After interviewing around 100 persons, including religious leaders and administrative personnel, who complained about the looting of their residences, shops and social premises such as hospitals, schools and administrative offices, the Team came to the conclusion that the looting was systematic and used as one of the premeditated tools of war by the military forces of MLC/RCD-N.

B. Child victims of abuse

111. From the testimonies received by the Special Investigation Team it appeared very clearly that children were as much targeted as adults during the attacks on the villages. The team received information about a total of 135 child victims of summary executions, sexual abuse, abductions, forced labour and forced recruitment/disappearance, as well as cases of family separation. In addition, even when children were not personally targeted, they often witnessed atrocities being committed against their family members. Many of the children appeared to be traumatized and require support for physical and/or psychological recovery.

1. Summary executions

112. The Team received testimonies regarding the summary execution of 24 children by the MLC and RCD-N soldiers in Mambasa (13), Lwemba (4), Erengeti (3), Komanda (3) and Byakato (1), as well as 9 child victims killed by UPC soldiers in Nyankunde. The children were often killed in a very violent manner. Some of those who were killed were reportedly cut to pieces and their bodies were subjected to acts of cannibalism. The following cases are illustrative of the types of summary executions of children described in the testimonies.

113. During the second attack on Mambasa in November, the family of the eyewitnesses, of the Mupili ethnic group, fled to their field. They were followed there by the *effaceurs* who demanded money. When the father said that he did not have any, the *effaceurs* slit the throats of a 3-year-old, a 5-year-old and both their parents, and killed a 6-month-old baby by banging him against a tree. They spared the lives of three older sisters, the eyewitnesses. They put the pieces of the bodies of those they had killed in plastic bags, which they took away with them.

114. During the same attack on Mambasa, the *effaceurs* broke into the house of K.K., who is Nande. She was able to escape, but her young sister was not so fortunate. The soldiers tied her up, beat her and then cut off her head with a machete.

115. When the *effaceurs* attacked Mambasa for the second time, M.F. was leaving his farm with his daughter. The soldiers shot at them, narrowly missing him, but hitting his daughter in the back. She fell, and the father hid in the bush. He could hear them talk, but he could not understand their dialect. The father hid for two hours, emerging from his hiding place only when silence had returned. It was then he found the mutilated body of his daughter. The soldiers had slit her throat and cut open her chest down to her stomach. They had removed all her internal organs (heart, liver and lungs), leaving her lungs lying on top of her chest. They had also cut off her right breast, and cut off her genitals including her pubic hair.

116. During the same attack, the *effaceurs* entered a store, hit a young Nande man who was behind the counter on the head, cut off his head, and took out his internal organs. They buried the head, and forced the manager of the store to eat the remaining pieces of the body with them.

117. In December, the *effaceurs* captured Byakato. P.M. and his family went to hide in the forest. There, they encountered a group of Pygmies. One day, one of the Pygmies and his daughter went to look for food. They were attacked by some *effaceurs* soldiers, who killed the girl and hacked her to pieces before eating her.

2. Sexual abuse and forced recruitment/disappearance of young women

118. All of the people interviewed confirmed that there had been widespread rapes of young girls, some as young as 10. The Special Investigation Team heard testimonies regarding the rapes of 27 girls from 10 to 18 years old by the MLC and RCD-N soldiers in Mambasa. Many victims were raped in front of their family members — husbands and young children. One man was forced to rape his adolescent sister. Others were abducted and used as sex slaves. A number of them were able to escape, but 19 remain "disappeared". The Team also heard of two similar cases of abduction of girls by the UPC soldiers in Komanda. The following cases illustrate the nature of rape cases reported.

119. On 14 January 2003, when the *effaceurs* were withdrawing from Mambasa towards Bafwasende, they stopped in Makalanga village. They first tried to rape the wife of the eyewitness M.A., but she was able to escape. They then went to an isolated hut, dragged out a 17-year-old girl, and two soldiers raped her in front of the other inhabitants of the village.

120. Three days after the first attack of Mambasa on 12 October, C.M., a 15-year-old Nande girl, returned from her hiding place in the forest. During the night, the *effaceurs* soldiers came to her house asking for women. They broke down the door and found her hiding in one of the bedrooms. One of the soldiers took her to another house and raped her, oblivious to the fact that she was seven months pregnant. The following morning, he let her go. She later gave birth to a stillborn child.

121. On 16 October, the *effaceurs* broke into C.K.'s house, located in Mambasa. They asked for money, and looted her goods. They abducted C.K., an Alur, with her 2-year-old baby, and took them to a house in which they had stockpiled looted goods. They kept her for a number of days, forcing her to cook for them. and subjecting her to repeated rapes in front of the baby. She was later able to escape, but found out that her 13-year-old sister had also been abducted. The sister remains "disappeared".

122. During the first attack on Mambasa by the MLC and RCD-N soldiers, the *effaceurs* broke into the house of M.K., a Musongedeux businessman. They stole M.K.'s goods, including some gold and money. They raped his wife in front of him, and then forced him to rape his 13-year-old sister. After a few days, the APC soldiers attacked Mambasa, but the MLC and RCD-N soldiers recaptured the town late in October. At that time, the *effaceurs* soldiers abducted M.K.'s mother-in-law and 13-year-old sister.

123. J.A., a 14-year-old Yogo, and her brother had fled from Bunia in August because of the conflict between the Hema and Lendu. During the first attack against Mambasa by the MLC and RCD-N soldiers, the *effaceurs* broke into the house where J.A. was staying, and abducted her, along with her brother. They took her to a house where five soldiers raped her. She fled Mambasa during the second attack in November.

3. Forced labour, forced recruitment/disappearance

124. Many young boys were forced to carry looted goods to the houses where the soldiers had set up camp. Others were not so lucky and were forced to carry the goods to an unknown destination. The Special Investigation Team received testimonies regarding 22 young boys who were forced to carry goods looted by the MLC and RCD-N soldiers in Mambasa (14), Erengeti (4) and Byakato (4). In addition, the Team heard of 9 young boys who were victims of forced recruitment and labour in Mambasa (2), Erengeti (3) and Byakato (4) and whose whereabouts remain unknown. The following cases are illustrative of these abuses.

125. During the first attack on Mambasa by the MLC and RCD-N soldiers in October, the *effaceurs* forced N.K.'s husband and three sons, of Nande ethnic origin, to transport looted goods after subjecting them to lashes. One of the boys never returned, and her husband died shortly after arriving in Beni.

126. On 14 January 2003, as the *effaceurs* were withdrawing towards Bafwasende. they forced 15-year-old twin brothers to carry looted goods. The boys spent many days walking in the forest, carrying heavy goods.

127. During the attack against Mambasa by the MLC and RCD-N soldiers in December, the *effaceurs* forced M.M., his 15-year-old brother-in-law and her 11-year-old son, both of Nande ethnic origin, to carry looted goods.

128. On 24 December 2002, the *effaceurs* broke into R.B.'s friend's house in Erengeti. They beat his friend K.D., a 17-year-old Ngiti, and forced him to carry looted goods towards Komanda.

4. Psychological abuse

129. Many children whom the Special Investigation Team interviewed appeared to be highly traumatized. A number of children were themselves victims of abuse, and had to flee from town to town. However, even those children who were not directly victimized often witnessed atrocities being committed against their family members or neighbours. The following cases illustrate the indirect violence suffered by children.

130. S.A., an 8-year-old Alur, and his 10-year-old brother U.I., are both from Lolwa. Towards the end of November, their parents were in their field, while the children were watching them from a distance. The *effaceurs* came to the field and dragged the parents to a nearby barn. They set the barn on fire and the children had to watch helplessly, as their parents were burned alive. The children are now in Oicha with a neighbour, but U.I. appears to have psychological problems.

131. On 26 November, the *effaceurs* broke into a house in Mambasa and looted everything that was inside. They then forced a young man, whom they had kidnapped, to set the house on fire with its inhabitants inside. The entire Nande family (mother, father and four children) thus perished. The eyewitnesses were two 16- and 8-year-old neighbours, who are now in Butembo.

5. Family separation

132. Many of the displaced from Mambasa are originally from Bunia or other towns ravaged by the ethnic conflict between Hema and Lendu. Many of them sought refuge in Mambasa in August and September when the ethnic conflict was raging in Ituri. As a result of these repeated displacements; families have been torn apart and the Special Investigation Team encountered numerous unaccompanied minors, many of whom had witnessed atrocities along the way. These children are vulnerable to all sorts of abuse, having been deprived of the protection of the adults in their families.[13] The Team was able to interview 25 unaccompanied minors from Byakato (10), Mambasa (7), Mandima (2), Lolwa (2), Mambao (1), Makumo (1), Komanda (1), and Nyankunde (1). The following cases illustrate their plight.

133. When the *effaceurs* attacked Mambasa in December 2002, they entered the field of M.K.'s mother, found her and started beating her. Fearful, the boy fled.

[13] According to non-governmental organizations working with the displaced population, there were 426 unaccompanied minors in Erengeti, 380 in Oicha, 276 in Beni, 743 in Byakato and 187 in Kyatsaba.

When he arrived in Byakato, he met a woman who agreed to take care of him. However, the *effaceurs* attacked Byakato, and they all had to flee to Oicha.

134. A 5-year-old boy, A.K., was found alone in the forest, crying, having been separated from his parents. He explained that he was fleeing Byakato with his parents when he lost sight of them. The eyewitness, A.B., a 21-year-old Nande man, took care of him until they reached Oicha.

135. A 13-year-old Mumbuba girl fled from Mambasa with her brother during the third attack by the MLC and RCD-N soldiers against that town. Their mother was in her field at the time, and they did not have time to go look for her. Their father was killed by the *effaceurs* during the first attack on Mambasa.

136. Two teenagers, 13- and 15-year-old neighbours, fled Mambasa in November, the second time that the *effaceurs* captured Mambasa. During the flight, they lost sight of their parents, and walked to Oicha by themselves.

VI. Human rights abuses committed by APC soldiers

137. Towards the end of November and in December, during the fighting to stop the MLC/RCD-N/UPC troops reaching Beni, the APC forces also committed human rights violations, especially in Erengeti, Byakato, Teturi and Makumo. Those reported violations — mostly looting and illegal arrest as well as two rape cases — are not of the same magnitude as those committed by the rival military troops. However, the military command of APC who were informed about the incidents by the Special Investigation Team did not take appropriate action to identify and punish the culprits. The total number of abuses reported to the Team is nine, but the looting in Erengeti and Teturi reportedly concerned several inhabitants.

1. Looting

138. In November 2002, APC soldiers came to the house of the witness in Erengeti. They beat him severely because he refused to give them money. They left after completely looting his house.

139. Also in November, the witness, 60-year-old P.S., was called by the chief of APC controlling at that time the town of Erengeti. He was asked to give all his money. Later, his house was completely looted by the same soldiers, whom he could not identify by name.

140. On 22 December, according to all witnesses spoken to in Erengeti, elements of APC arrived in Erengeti town shooting in the air and asking the population to leave because of the advancing ALC troops. On the same occasion, the APC soldiers invaded houses and looted several habitations. According to the information given to the Special Investigation Team by RCD-ML authorities, the Commandant of the battalion responsible for this incident was arrested and executed by the APC military hierarchy, who accused him of connivance with the enemy forces.

141. During December, APC soldiers robbed the 27-year-old K.L. of all his money in Byakato.

142. On 20 December, two APC soldiers came first by bicycle to the Pygmy Centre of Kundila Mapendo, located in Byakato, to conduct a reconnaissance mission. Later, around 5 p.m., a group of APC soldiers arrived by truck to conduct a

complete looting of the Centre. The 52-year-old K.P. witnessed the looting from his hiding place. The military took computers, sewing machines, typewriters, machinery for carpentry etc. The director of the Centre has a complete list of all materials stolen by the military. The Team expressed his concern to RCD-ML authorities and asked for the restitution of materials and goods. The APC Commander in this zone was Colonel Mulondo. The military opened an inquiry but they were not able to give a satisfactory response to the Team nor have they yet returned any of the materials stolen at the Centre.

2. Illegal arrest and restriction of freedom of movement

143. On 28 November 2002, 18-year-old A.M.M. stayed in Mandima during the second attack of ALC because he was unwell. He left the town at the beginning of December through the forest to go towards Mangina. He was captured by three APC soldiers in the forest. The case was reported by C.L., a 34-year-old family member, who has not heard from him since he left.

144. By November, the inhabitants of Mambasa had fled to Teturi, a locality controlled by APC soldiers. The internally displaced persons wanted to leave Teturi as they had heard that ALC was advancing towards Beni. The Governor closed the city fence to prevent the population from escaping and he explained to them that ALC were still far away. The fences were opened only when ALC attacked the town. The eyewitness, 45-year-old K.N., saw several children being killed by gunshots. He also witnessed the looting of the internally displaced persons by APC soldiers.

145. On 26 October, the parents of the eyewitness M.S., his 59-year-old father M.K. and his 56-year-old mother, together with his 21-year-old brother K.K. and his youngest sister M.M., were taken by APC soldiers who suspected them of informing the enemy. The eyewitness has not heard from them since their disappearance.

3. Rape case

146. On 16 December, 14-year-old K.K. and her 18-year-old sister K.T. were raped by elements of APC in Makumo after having been severely whipped because of their resistance. The father, who reported the incident to the Team, was present during the rape. Both victims later died of their wounds and were buried by their father in the forest near Makumo.

VII. Identity of the elements of the operation *effacer le tableau*

147. The MLC elements attacked Mambasa twice; the first operation lasted from 12 to 29 October and was carried out under the command of Lieutenant Colonel Freddy Ngalimu, alias Grand Mopao. The second operation was carried out under the command of Colonel Widdy Ramses Masamba, alias Roi des Imbeciles, and lasted from 27 November to the end of January when the last MLC elements left Mambasa. According to the inhabitants of Mambasa, during both operations the MLC soldiers claimed to be carrying out an operation called *effacer le tableau*. Both colonels were operating under the command of General Ndima Constant, located in Isiro.

148. The President of MLC during a meeting with the members of the Special Investigation Team in Gbadolite recognized that both Colonel Ngalimu and Colonel Ramses were under the direct command of General Ndima Constant. Jean-Pierre

Bemba also recognized that General Ndima had arrived in Bafwasende by the end of October where the MLC soldiers had withdrawn to reorganize the troops. Several sources reportedly stated that General Ndima's nickname was *effacer le tableau* and they reported that he was part of a group *effacer le tableau* which was established in 2001 during the existence of FLC. The battalion *effacer le tableau* was well known for its tough personnel and the way it used to behave in war time. After the dissolution of FLC six months later, the battalion reportedly remained in Isiro, and some of its companies were sent on tough missions like the invasion of lost territories of Mambasa. General Ndima reported directly to the MLC Chief of Staff, General Amuli. He reportedly took the order from General Amuli to replace Freddy Ngalimu by Colonel Ramses. According to an MLC informer whose identity the Team would rather keep secret, Colonel Ramses is very close to General Amuli, a Hema from Ituri, and was sending "big boxes" to General Amuli from Mambasa.

149. The special forces referred to as *effacer le tableau* and two MLC battalions, one called Foudre operating on the Mambasa-Beni road and the other called Dragon operating on the Komanda-Bdini road, were originally under the command of Colonel Ngalimu and later under the command of Colonel Ramses. These troops included some ex-FAZ from Gbadolite; some Interahamwe; a few soldiers speaking Portuguese and one platoon of UPC soldiers. The battalion Foudre was under the command of Major David Bugera, a Rwandan identified by the victims as the deputy of Colonel Ngalimu during the first attack. During the command of Colonel Ngalimu, a team of 19 persons was sent by UPC under the command of a certain James, according to the Team's MLC informer, a UPC instructor from Rwanda. James and 17 elements of his troops were killed by MLC according to the inhabitants of Mambasa, who also witnessed the transport of his head from Mandima to Mambasa. However, this version was challenged by the Team's informer, who stated that the UPC elements were killed by APC soldiers in an ambush as they made their way from Komanda.

150. The other names given by the victims and eyewitnesses as being responsible for human rights violations were Major Bugera, the deputy of Colonel Ngalimu; Lieutenant Zima Zogonda; Maitre Mokedu; Commander Kakule in Madima; an ex-FAZ named Zaidi Ngoma; Commander Musa, ex-player for As Luna in Isiro; Commander Mulamba; an ex-APC soldier; and the body guard of Ngalimu, called Tia Mosapi; other names cited were Itiko, Papi, Blaise and Janvier.

151. For the non-identified aggressors, the victims described them as being tall, some were dressed in military clothes but the majority wore civilian clothes, others wore sportswear and a few of them bare-chested. One of them had written on his back *effacer le tableau*. The majority of them spoke Lingala, a few spoke Swahili and some Portuguese. They carried simple guns, bayonets and knives.

VIII. Response of the MLC authorities to the incidents

152. The MLC authorities received the Special Investigation Team in Gbadolite soon after they carried out their own investigation in Mambasa, which had resulted in the arrest of 27 ALC elements suspected of having committed the human rights abuses in Mambasa.

A. Meeting of the Investigation Team with MLC authorities

153. On 13 February, three members of the Special Investigation Team travelled to Gbadolite to interview the elements of the ALC military command responsible for the Mambasa operations. The Team had a meeting with Jean-Pierre Bemba, the President of MLC, together with Olivier Kamitatu, the Secretary-General of MLC, and General Bule, the President of the Military Court of the garrison. Mr. Bemba conducted the entire meeting and confirmed the findings of the Team concerning summary executions, rapes, ill-treatment and looting with the exception of acts of cannibalism. Contrary to the statement made by MLC authorities about their willingness to cooperate, the Team was not allowed to interview the soldiers in confidentiality the following day. MLC proposed the presence of three members of the local judiciary during the interviews and the direct recording of all interviews. The Team declared that no human rights investigators would accept such conditions and refused to interview the suspects.

154. During their stay in Gbadolite, the Team was however able to communicate informally with several suspects and obtained clarifications on the military operations and the responsibility of the different commanders.

B. MLC response to the events in Mambasa

155. Just after the preliminary findings were made public by MONUC, the MLC authorities agreed to conduct an inquiry into the events. A team of several members including one judge was sent by MLC on 25 January to Mambasa to interview victims and look for evidence. The team also met with the MONUC military observers and F.R. On 27 January 2003, Roger Lumbala also arrived in Mambasa to participate in the investigation but focused mainly on the issue of cannibalism. The MLC team stayed three days in Mambasa and returned with the mother of one of the first victims of summary execution to give testimony in the trial of Freddy Ngalimu and Roger Zima. The report of the Team was the basis for the reopening of the trial of 27 suspects from the ALC forces.

156. The trial of 27 individuals accused by MLC of involvement in the atrocities in and around Mambasa began on 18 February and lasted until 25 February. The Human Rights Section in Gbadolite observed the proceedings of the 27 suspects. Twenty suspects were tried in public hearing and the remaining seven were heard in camera. Only two MLC-appointed attorneys represented the suspects. It is obvious that the right to counsel was denied the accused — this is in part because of the travel restrictions imposed by the Kinshasa Government on a group of defence lawyers who had been chosen by the Kinshasa Bar Association to represent the accused. The United Nations High Commissioner for Human Rights stated clearly that the trials were both illegal and illegitimate.

157. Beyond the constitutional issue of its legitimacy, four additional aspects of this trial need to be pointed out. First, the admission as evidence of self-incriminating statements made by defendants held incommunicado during police/military questioning. Second, the obvious disparity between the charges and the sentences handed down. For instance, the charge of rape carried a maximum prison sentence of 13 months. The charge for deserting the armed forces, which routinely is punishable by the death penalty, most surprisingly carried 39 months in this "Court Martial".

Third, the trial did not charge anyone with any of the horrendous crimes against humanity and war crimes, such as murder, group rapes, and cannibalism referred to in the MONUC report and Security Council resolution. Fourth and finally, since the sentencing, a wave of arrests of defence witnesses who had testified on behalf of the accused has begun.

IX. Conclusion and recommendations

A. Conclusion

158. The testimonies of 503 persons from different places on the two axes from Mambasa to Beni, and actually displaced to five different localities, indicate a pattern of looting, killing and violence against women used as premeditated tools of war by MLC, RCD-N and UPC military forces in October and during fighting in December. The acts of cannibalism, preceded by corporal mutilations and sectioning of internal body parts, particularly concerning the Pygmies' internal body parts such as the heart and the liver, can be considered to be pure fetishism aimed at helping the perpetrators to acquire the capacity and ability of the victims to hunt and live in the forest. The fact of forcing family members to eat the parts of their loved ones could be considered as part of a policy of psychological torture.

159. Most of these violations seem to have been committed with the aim of taking revenge on the Nande and Pygmy populations perceived as assisting and supporting the RCD-ML authorities.

B. Recommendations

160. The Team recommends the following actions aimed at restoring justice and supporting the inhabitants of Mambasa who lost everything:

- Follow-up of rape cases by a female human rights investigator sent to Mambasa
- Follow-up of all forced disappearance cases, drawing up a list of victims to be sent to MLC authorities for action
- Identifying a non-governmental organization to give psychological support to victims of rape and eyewitnesses of executions and acts of cannibalism
- Sending a forensic expert team to analyse mass graves in Mambasa, and in Ituri in general
- Emergency humanitarian assistance for schools and medical facilities which were completely looted, some of them destroyed
- Identification of quick-impact projects to be implemented for the rehabilitation of schools or medical facilities in the region
- Children who are victims of violence in Ituri require many forms of assistance. They need assistance to heal their physical scars, but they also need psychological counselling for the trauma they have suffered. It is thus recommended that the international community provide assistance in the interim until the public structures are functional. A first step in this direction

could be the action of the Child Protection and Education Committee, which was put in place recently. This Committee is composed of representatives of SOS-Grands Lacs, CESVI, Save the Children, Let's Protect Children and MONUC.

Appendix I

Chronology of the military operations

The military operation called *effacer le tableau*, both organized and executed by MLC/RCD-N military command, took place on two axes, namely the Mambasa-Teturi-Byakato-Mangina-Beni axis and the Isiro-Mambasa-Komanda-Erengeti-Beni axis.

1. Military operations on the Mambasa-Teturi-Byakato-Mangina axis

- On 11 October 2002, in the afternoon, gunfire and shelling could be heard in Makalanga, 10 km from Mambasa on the Bafwasende axis. Some of the inhabitants, panic-stricken, escaped towards Mandima, 6 km away on the Komanda axis.
- On 12 October, early in the morning, MLC/RCD-N troops, coming from Epulu, entered Mambasa. The majority of the inhabitants fled into the bush, only a few staying in Mambasa. The inhabitants witnessed the systematic looting of all the houses. The aggressors also raped a large number of little girls, young girls and women. The troops forced the inhabitants to carry their loot towards their bases and later, for some of them, towards Bafwasande, the location of ALC military headquarters. Those who refused were whipped and subjected to degrading and inhuman treatment.
- On 13 October, the same troops moved towards Mandima and committed abuses. They killed the hospital security guard and looted the health facility of the area.
- On 24 October, after an unsuccessful attempt at an incursion by APC soldiers that resulted in the deaths of several soldiers, the first summary executions were carried out. Many other summary executions were carried out during this period because MLC/RCD-N suspected the majority of the population of supporting APC troops.
- On 25 October, APC troops attacked MLC/RCD-N forces in Mandima. In the afternoon, they moved towards Mambasa. It was at that time that a group of UPC soldiers, who had come to reinforce their troops, had to turn around in order to inform MLC/RCD-N troops that APC were 7 km from Mambasa. On 26 and 27 October, fighting between the two camps continued in the bush in and around Mandima and Mambasa.
- On 28 and 29 October, MLC/RCD-N troops withdrew from Mandima carrying out more lootings and summary executions.
- On 29 October, APC reportedly reinforced its troops with Mayi-Mayi elements and FAC soldiers and gained control of Mambasa.
- From 29 October to 27 November, APC troops controlled the whole area including Mambasa and Mandima. With the return of the displaced persons, schools and hospitals, which had been shut down, reopened.
- At the beginning of November, the MLC/RCD-N troops based in Watsa advanced towards Mungwalu and Mahagi heading to Bunia. At the same time tension rose between UPC and the Ugandan authorities.

- MLC/RCD-N stopped the advance of their troops following an agreement signed with UPC to fight the RCD-ML faction. They all finally marched towards the Watsa-Apodo-Nduye-Mambasa axis.
- On 28 October, 2,000 MLC/RCD-N soldiers entered the deserted town of Mambasa from the Isiro axis. The APC troops fleeing Mambasa reportedly had to pay their way out in Epulu. They reportedly moved towards Beni by the Mangina-Beni axis.
- From 18 to 21 December 2002, MLC/RCD-N soldiers continued their advance towards Byakato, taking control of the Ituri River and Teturi city, pushing the population towards Mangina. As they advanced, the troops looted, killed, raped and also took hostages whom they forced to carry their loot and munitions.

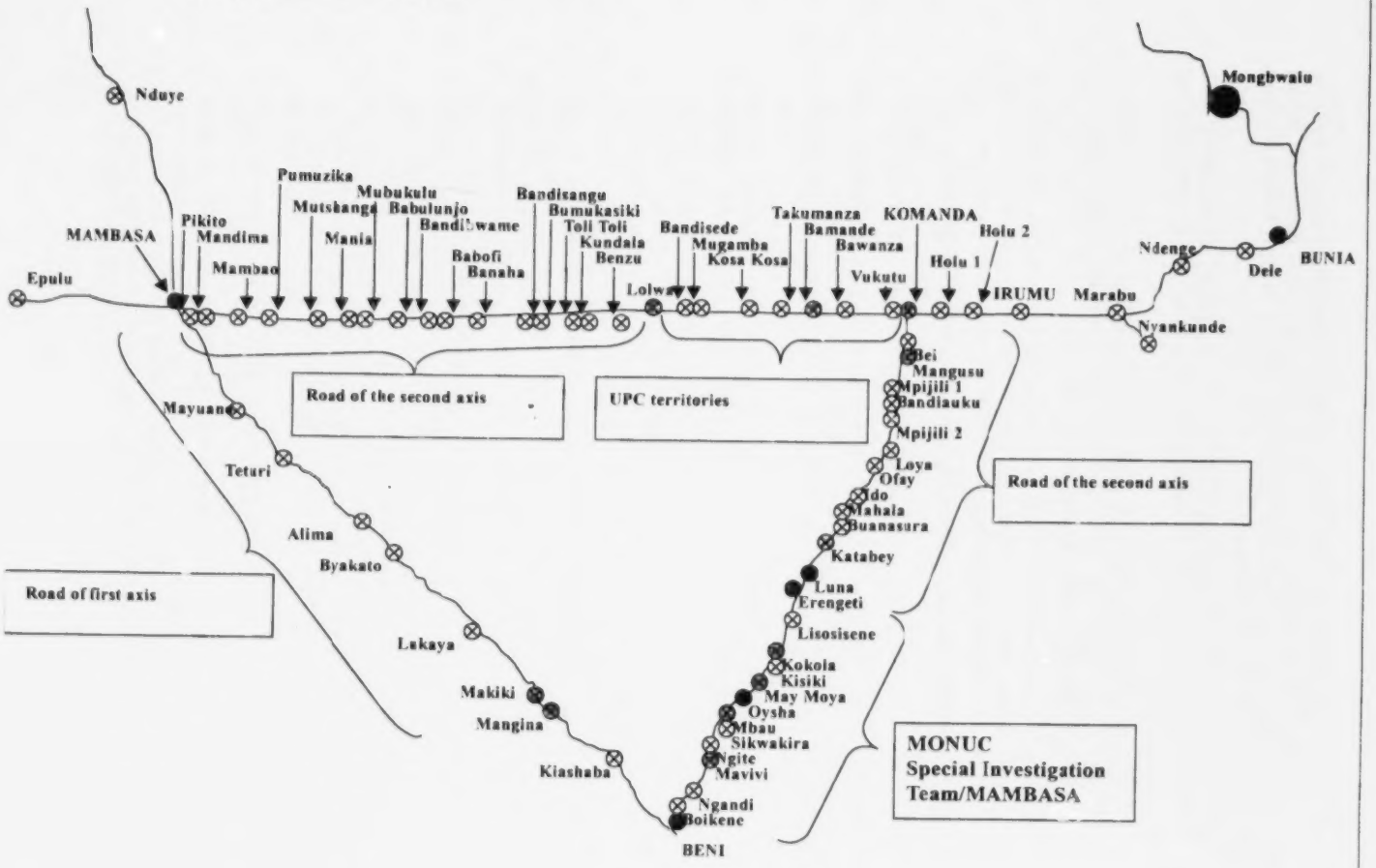
2. Military operations on the Isiro-Mambasa-Komanda-Erengeti axis

- On 10 December, MLC/RCD-N complementary battalions (including the one called Dragon) sent reinforcement troops from Isiro to Epulu, surprising the APC troops which were withdrawing towards Komanda.
- On 16 December, fighting erupted at a bridge 7 km from the city of Komanda between APC and MLC/RCD-N troops. APC lost control over Komanda and MLC/RCD-N continued its move towards Erengeti, committing abuses on their way.
- On 22 December, APC troops, pushed by their rivals, reportedly went to Erengeti and informed the population that the enemy was 50 km away.
- On 23 December, the Erengeti inhabitants were awakened by gunfire of APC soldiers, who fired to frighten them and oblige them to escape. In their withdrawal, the APC soldiers looted and forced the males to carry their loot to Oicha where their group took refuge.
- On 23 December, MLC/RCD-N/UPC troops, approximately 400 soldiers according to eyewitnesses, entered the ghost town of Erengeti without meeting any resistance. According to the RCD-ML authorities this happened with the complicity of the Mayi-Mayi Commander, who was later executed for treason.
- On 24 December, the MLC/RCD-N troops entered the bush to chase the APC troops but encountered the Erengeti inhabitants who were in hiding. They interrogated them about their ethnic origin and told them that they were searching for Nande and Lendu. They also forced them to return to Erengeti by beating some of them. They summoned four members of the Bira ethnic group to their camp in order to tell them about the reason for their arrival which, in their words, was to "clean the wastes", Nande and Lendu people, as well as to occupy Beni.
- On 25 December, the occupying troops forced the priest to celebrate Christmas mass. But around 11 p.m., before the mass ended, the Mayi-Mayi coming from Oicha attacked Erengeti through Kasano reserve. At the end of the day they were repulsed, leaving behind them 10 dead. On that same day the *effacer le tableau* troops organized a public meeting to inform the population that they had come on behalf of Bemba and Lumbala and that they were in search of Lendu and Nande people.

- On 27 December, the Mayi-Mayi returned to Erengeti, reinforced by APC troops. They were able to push back the *effacer le tableau* troops after having beheaded their fetish man; the MLC troops withdrew towards Katabe, a village located 10 km from Erengeti.
- On 28 and 29 December, the MLC/RCD-N/UPC troops moved slowly back towards Komanda, taking hostages whom they forced to carry their loot and munitions.
- Around 30 December, they reached Komanda and moved towards Mambasa after having committed new exactions. In their withdrawal towards Mambasa, UPC soldiers who controlled the area assisted them.
- Most of them reached Mambasa on 10 January 2003 where they were joined by their troops, which had withdrawn from the Byakato axis to Mambasa around 5 January and were advancing towards Byakato.
- The last APC elements left Mambasa by the end of January 2003.

Appendix II

Map of the conflict zone



Appendix III

Abbreviations

ALC	Armée de libération du Congo
APC	Armée populaire congolaise
FAC	Forces armées congolaises
FAZ	Forces armées zairoises
FLC	Front de libération du Congo
MLC	Mouvement de libération du Congo
MONUC	United Nations Organization Mission in the Democratic Republic of the Congo
RCD	Rassemblement congolais pour la démocratie
RCD-K	Rassemblement congolais pour la démocratie — Kisangani
RCD-ML	Rassemblement congolais pour la démocratie — Mouvement de libération
RCD-N	Rassemblement congolais pour la démocratie — National
UPC	Union des patriotes congolais

Annex II

[Original: French]

Report of the United Nations High Commissioner for Human Rights on the events of 3 April 2003 in Drodro

I. Introduction

1. For nearly five years now, the human rights situation in Ituri[1] has been deteriorating in a context characterized by sporadic inter-ethnic violence and deadly clashes. The armed conflict that broke out in August 1998 and continuing dissension among the rebel movements and factions coupled with the interference of neighbouring countries have exacerbated this situation. In the face of increasing tension and violence, the different ethnic groups of the region have organized themselves into militias or armed groups with the aim, among other things, of influencing the political process in the Democratic Republic of the Congo.

2. The current cycle of violence began in August 2002, when the Union des patriotes congolais-réconciliation et paix (UPC-RP) captured the town of Bunia. In January 2003, just after the parties to the inter-Congolese dialogue signed the Pretoria Agreement, the forging of a political and military alliance between UPC and RCD-Goma led to a further deterioration in the situation in Bunia, especially since the UPC leaders cast doubts on the pacification process in Ituri within the framework of the Luanda Agreement signed on 6 September 2002 between the Governments of Uganda and the Democratic Republic of the Congo.

3. It is in that context, also marked by dissent within UPC, that the Front pour l'intégration et la paix en Ituri (FIPI), another armed faction led by a former member of UPC, Chief Kahwa Panga Mandro, was established. With the support of foreign troops, FIPI[2] seized the town of Bunia on 6 March 2003, forcing the UPC leader, Thomas Lubanga, to fall back with his militias initially to the locality of Bule, then to Bluukwa and to Drodro (about 80 km from Bunia) and its environs, where they came under armed attack on 3 April 2003, a day before the Ituri Pacification Commission was established.

4. In a press statement on 8 April 2003, the President of the Security Council requested me to initiate an investigation on the recent events in Drodro and to report to the Council. Thus, on my instructions, a special investigation team charged with supplementing the information provided by the mission dispatched to the area by MONUC on 5 April 2003, was set up. That multidisciplinary team was composed of two officials from my Office in the Democratic Republic of the Congo, staff members of MONUC[3] and two forensic scientists.

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[1] Ituri is one of four districts in Orientale Province. It covers a surface area of 65,830 sq. km with a population of about 4,500,000 inhabitants.

[2] FIPI is a platform of three movements: the Parti pour l'unité et la sauvegarde de l'intégrité du Congo, the Front des nationalistes et intégrationnistes and the Forces populaires pour la démocratie au Congo.

[3] Human rights officers, child protection officers, humanitarian affairs officers, civilian police officers and military observers.

5. This report is based on the information gathered by the Office of the High Commissioner for Human Rights/MONUC special investigation team during its mission to Drodro and its environs from 18 April to 5 May 2003. It reports on the findings of the investigation into the events in Drodro and highlights the human rights situation in Ituri following the events of 3 April 2003. It also contains a number of conclusions and recommendations.

II. Findings of the investigation into the incidents in Drodro

6. In order to put the facts in their proper perspective and to understand the characteristics of the victims and perpetrators of the violence that took place on 3 April 2003, the special investigation team interviewed survivors, eyewitnesses, family members, neighbours of victims as well as those who dug the communal graves. It also met with a considerable number of local players, including the Ituri political and administrative authorities, judicial authorities, members of civil society, leaders of the Drodro Catholic Church, Hema and Lendu village chiefs, Hema and Lendu community leaders, some local human rights non-governmental organization leaders, as well as commanders of Ugandan army (UPDF) units based in the area. The investigation team also visited the general referral hospital in Drodro and several sites where communal graves were located, including Largu, Nyali and Jissa.

7. The bloody events that occurred in Drodro and its environs on 3 April 2003 (quite apart from the recent atrocities committed in the course of the UPC attack) made the already precarious human rights situation throughout Ituri worse. The accounts of the events given to the investigation team by the leaders of the religious communities and all the above-mentioned actors show that violations of the right to life, physical integrity and property were perpetrated. Specifically, there were reports of nearly 408 cases of summary executions, including people burned alive; more than 80 people were badly wounded and even mutilated, about 150 shops were looted and several dozen heads of livestock were stolen by the attackers. These were the most serious violations of human rights committed during those events.

8. The investigation team received several versions of the facts concerning the number of victims, the identity of the attackers and their sponsors, the motives for these events and the involvement of foreign troops in the events of 3 April 2003 from the above-mentioned actors. The Drodro religious community leaders put the death toll, including those reported missing, at 966. That figure, which was confirmed by the political and administrative authorities, was revised considerably downwards because of the gradual return of some people who had disappeared from their localities. Apart from an unknown number of people burned alive when their houses were set on fire, the investigation team came up with a death toll of 408[4] for the time being after cross-checking several times. This figure remains provisional since, owing to security reasons, the investigation team was unable to visit eight other localities affected by the events. It should be noted here that Drodro and Largu, although in the town of Dhessa, are considered two separate localities.

[4] The localities visited were Dhessa (Drodro and Largu), Nyali, Jissa, Ngazba, Kiza, Duma and Dzati, the following localities were not visited: Kpatiz, Koli, Lera, Buki, Saio, Ndjala and Kpaluba. The list of victims is available.

9. Identification of the dead was one of the main difficulties encountered by the investigation team. First, the attacks forced a large portion of the population to seek refuge in the valleys of the Jissa hills, where many people were unfortunately surrounded and then massacred. The burial of victims in communal graves did not facilitate their identification. Despite the investigation team's appeals to the inhabitants of Jissa for witnesses to come forward, it was unable to gather enough evidence to confirm beyond any doubt the exact number of bodies buried in the communal graves. Secondly, the common practice in the area of calling people by their first name or nickname seriously hampered the investigators' work. According to the information received by the investigation team, most of the dead were said to be women and minors; some of them had allegedly been killed and cut up with machetes, while others had been burned alive. The victims were reportedly natives of the besieged localities; those who were not identified were said to have fled from such localities as Iga-Barrière and Mongbwalu to seek refuge in Largu because of the insecurity in their home areas.

10. The forensic scientists were not able to evaluate further the number of bodies buried in the communal graves owing to time and logistical constraints as well as to the security situation on the ground. However, they did discover communal graves and confirmed that civilians, including a large number of women and children, had been massacred.

11. The investigation team visited communal graves, especially in Largu, Nyali and Jissa. The latter locality alone reportedly had some 20 communal graves, 8 of which were visited by the investigation team. According to the local notables, about 140 bodies had been reportedly buried in those eight communal graves, on which crosses indicating the number of bodies — ranging from 5 to 32 — had been erected at the initiative of the leaders of the religious communities.

12. As far as the identity of the attackers was concerned, the accounts of religious community leaders, eyewitnesses, survivors and political and administrative authorities indicate that the attacks on Drodro and its environs were carried out by Lendu militias, identified by their clothing, modus operandi, war cries in Swahili (the language spoken in the Ituri area and Uganda) and Kilendu (the dialect spoken by the Lendu and Hema from the north, commonly called the "Gegere"), their place of origin (the attackers had allegedly come from neighbouring Lendu villages such as Andu, Juki, Masumbuko, Tsoro and Asso); moreover, some individuals were actually identified among the attackers, including a Lendu from Kiza. A 15- or 16-year-old Lendu attacker wearing a red T-shirt and amulets, whose identity could not be established, died at the Largu commercial centre. Witnesses also reported that some of the attackers were wearing olive-green mottled military uniforms like those of the Ugandan troops in the region.

13. According to members of human rights non-governmental organizations, the presence in Drodro in the second half of March 2003 of Thomas Lubanga, leader of UPC-RP, and of Colonel Edison Muzora, former commander of the Ugandan troops in the Bunia sector and now a rebel said to be on the UPDF wanted list, was most likely the reason why a strategic alliance was forged between UPDF and the Lendu militias. Thus, in the view of the human rights non-governmental organizations, the attack on Drodro and the surrounding area on 3 April 2003 was carefully planned by the Lendu militias, who wanted to settle scores with the Hema while benefiting from the complicity of elements of the Ugandan army who participated in the attack.

Similarly, although confirming that massacres had occurred in Drodro and its surrounding areas, members of the humanitarian non-governmental organizations expressed serious reservations as to the figures for the death toll advanced by the religious authorities and the number of bodies in the communal graves.

14. This version of the facts was rejected by the operational command of the Ugandan troops, which noted that the Ugandan troops were still in Bule, some 30 km from Drodro, on the date in question and had been deployed to Drodro on 5 April 2003 in order to provide security for the population. Thus, according to the UPDF command, the Ugandan army was not involved in any way in the 3 April 2003 events in Drodro.

15. On the basis of the relevant information gathered in situ and the findings of the forensic experts, the special investigation team confirms that a massacre did indeed take place between 5.45 a.m. and roughly 8 a.m. on 3 April 2003. The attackers came from Masumbuko, Acha, Tsoro, Djubu, Ango and Asso and carried out deadly attacks on Dhessa (Largu), Duma (Drodro), Nyali, Dzathi, Kiza, Ngazba, Jissa, Kpatiz, Koli, Lera, Buki, Ndjala and Kpaluba.

16. They used various kinds of bladed weapons (machetes, axes, spears and arrows) and firearms: AK-47s and Kalashnikovs with holsters and 7.5 cm cartridges, some casings of which were found at the site by the investigation team. The simultaneous use of these weapons by the groups of attackers explains the scale of the massacres. People who ran from their houses to take refuge in the Resi Valley between Hona hill and the rise from Wa-tsi to Jissa were spotted and surrounded by the attackers and then massacred in cold blood, unable to either escape or offer any resistance. It is there that the massacres were committed on a large scale and that a large number of communal graves are located.

17. In addition to the considerable number of people killed and the many injured, disappeared or mutilated (see para. 7), a salient feature of the attack on Drodro was the way in which it was ransacked. The attackers, aided by their wives and children, apparently carried off anything of value that they found in houses or retail premises, as well as livestock such as goats, cows and sheep. On its visit to the general referral hospital in Drodro, the investigation team identified 48 people, mainly women and children, who had been seriously wounded by automatic weapon fire and machetes during the attacks. Moreover, the sick, the old and the physically handicapped, unable to flee the fighting and abandoned to their fate, were burnt alive in their huts and houses.

18. According to most of the sources contacted by the special investigation team, the attackers were identified as Lendu militia members. However, sources also strongly suspect Ugandan troops, who, while they may not have participated directly in the events of 3 April 2003, had a strategic interest in the Drodro attack because Mr. Lubanga and Colonel Muzora were known to be in the area. These sources also did not rule out the possibility that Ugandan regular troops might have participated directly in the events.

19. This conclusion can be drawn from what was mentioned in paragraph 13, namely, that in response to an alliance between Colonel Muzora and Mr. Lubanga, a counter-alliance had been established between Ugandan troops (UDPF) and Lendu militias.

III. Situation of human rights in Ituri after the events of 3 April 2003

20. As I mentioned in earlier statements, the human rights situation in Ituri is particularly serious. The 3 April 2003 events in Drodro, which cost the lives of some 408 people, come at a time when there are beginning to be real hopes for peace in the Democratic Republic of the Congo, especially since the signing of the Global and All-Inclusive Agreement at Sun City on 17 December 2002. Already facing insurmountable difficulties, the vulnerable population of this part of Congolese territory sustained attacks by Lendu militias on 8, 11, 12, 15, 17 and 18 April 2003, respectively, in the localities of Tsokle, Line, Rhoo (the fishing camp), Jissa, Kpatiz, Kule, Tchusa and Koli. Those attacks resulted in numerous massacres, some of them characterized by exceptional atrocity, in which neither women nor children were spared. Many of the survivors were mutilated or seriously injured. The attackers also robbed, looted, ransacked and committed arson. It is particularly shocking that women and even children were brought along to the looting, as if to a party, which took place amid the acrid smoke from people burning to death while others lay wounded or dying in their own blood.

21. The already alarming humanitarian situation in Ituri has become intolerable. The events of 3 April 2003 have had a weighty impact on the living conditions of the survivors of the massacres in Drodro and the 15 surrounding localities. Lack of security compels them to take refuge at nightfall in large population centres such as Largu or else in the forest. Their belongings are stolen in their absence and their fields have become inaccessible, with the result that these displaced persons are living in extremely precarious conditions. They are malnourished and often lack the bare essentials. The events have also caused thousands of people to move to the surrounding areas, making the humanitarian situation very difficult.

22. More recently, following the withdrawal of Ugandan troops and the deployment of members of the Rapid Reaction Police from Kinshasa, the security situation in Bunia deteriorated dramatically, to the point where the overall situation changed completely. Clashes in the city and around Bunia airport between different militias armed with heavy and light weaponry and bladed weapons created a climate of insecurity that lent itself to all kinds of abuse. The premises and warehouses of humanitarian agencies were looted, as were private houses. The mostly Hema population was massacred, including Father Raphael Ngona, Catholic parish priest of Drodro, and militia members besieged and even attacked MONUC, forcing its troops to fire into the air to disperse them. Faced with this escalation of violence, humanitarian workers were evacuated to Kisangani and Goma and thereby prevented from assisting the affected population.

IV. Conclusions

23. The situation in Ituri in general, and in the Drodro area and neighbouring localities in particular, is extremely threatening to peace and stability throughout the Democratic Republic of the Congo and the Great Lakes region. It requires a response on the part of the international community and all the Congolese actors.

24. Like the atrocities recently perpetrated in Bunia, the events in Drodro occurred during a conflict when various rebel movements were born — movements which are

backed by neighbouring countries and are constantly riven by deep internal dissension. The proliferation of rival factions and of militias and tribal armed groups which are manipulated and run by a handful of warlords and certain neighbouring countries desirous of protecting their interests or influencing the political process in the Democratic Republic of the Congo largely explains the unprecedented violence which has swept Ituri for a number of months and is responsible for serious human rights violations and a disastrous humanitarian situation.

25. It is highly regrettable that the violence and destruction should continue to afflict the population in this part of the Democratic Republic of the Congo at the very time when efforts to put in place effective transitional institutions are under way. If the members of the Security Council review recent events in Drodro and Bunia, they will see that once again the underlying cause of the situation in the Democratic Republic of the Congo is a vicious cycle of grave human rights violations and vengeance, buttressed by impunity. It is absolutely essential to terminate this cycle in order to restore peace and stability in the Democratic Republic of the Congo.

V. Recommendations

26. In this regard, I recommend that the future transitional government should consider establishing, as an emergency measure, an appropriate judicial body to try the alleged perpetrators of the serious human rights violations and breaches of international humanitarian law committed in Ituri and elsewhere in the national territory. To this end, I would suggest to the members of the Security Council that they emphasize to States Members of the United Nations the importance of not harbouring those involved in the recent atrocities and violence. In view of the nature of the crimes committed by the assailants on 3 April 2003 in Drodro and its environs and the atrocities perpetrated recently in Bunia, I am already committed to cooperating closely with the Prosecutor of the new International Criminal Court, whom I met on 16 May 2003 in the context of his efforts relating to the events in the Democratic Republic of the Congo. I shall also recommend to the Prosecutor that he take up the question of the recent brutal murder of two military observers of MONUC, whose perpetrators should be identified, found and punished.

27. As the majority of the victims are defenceless civilians, I urge the Security Council to consider strengthening the presence of military observers in order to enable humanitarian organizations and human rights observers to move into Ituri. I also request all Member States in a position to do so to respond promptly and favourably to the appeal of the Secretary-General for the interim deployment of a military deterrent force as back-up for the MONUC military contingent currently deployed in Bunia and consisting mainly of a Uruguayan contingent, whose courage I salute. Its presence is obviously inadequate to ensure the security of the population in Bunia, far less that of the population of Ituri.

28. Lastly, I request the Security Council to provide support for the establishment of national human rights promotion and protection institutions and a truth and reconciliation commission and for the enhancement of the operational capacity of the judicial system in the Democratic Republic of the Congo.

VI. Special recommendations for following up the Drodro events

29. The High Commissioner, in the light of the conclusions of the Drodro investigation mission and because of the gravity of the abuses and atrocities committed in Bunia recently, suggests that the Security Council consider the possibility of dispatching, at an appropriate time, an international mission to investigate and shed full light on the numerous serious human rights violations and breaches of international humanitarian law in Ituri and throughout the eastern part of the country.

30. The High Commissioner intends to encourage the Special Rapporteur on the situation of human rights in the Democratic Republic of the Congo, the Special Rapporteur on extrajudicial, summary or arbitrary executions and a member of the Working Croup on Enforced or Involuntary Disappearances, accompanied by forensic experts, to investigate jointly, as soon as security permits, the massacres perpetrated in Ituri.

31. Concurrently with these efforts, the High Commissioner urges the Security Council to consider the possibility of requesting the Prosecutor of the International Criminal Court to take up the question of the serious human rights violations and breaches of international humanitarian law perpetrated in the Democratic Republic of the Congo with a view to supporting, jointly with my Office, the efforts expected of a national judicial body such as the one recommended in paragraph 26.

Abbreviations

UPC-RP	Union des patriotes congolais — reconciliation et paix, established in August 2002 (broke away from RCD-ML), led by Thomas Lubanga, backed at the beginning by the Ugandan army. Currently maintains relations with RCD-Goma and Rwanda
FIPI	Front pour l'intégration et la paix en Ituri. Established recently and led by Kahwa Panga Mandro, a Hema from the South
PUSIC	Parti pour l'unité et la sauvegards de l'intégrité du Congo, led by Kahwa Pango Mandro
FNI	Front des nationalistes et intégrationnistes, led by Commander Floribert Njabu, a Lendu
FPDC	Forces populaires pour la démocratie au Congo, led by Thomas Unen-Chan, an Alur notable
RCD-Goma	Rassemblement congolais pour la démocratie, established in August 1998, led by Adolphe Onusumba and backed by Rwanda
RCD-ML	Rassemblement congolais pour la démocratie — Mouvement de libération, established in 1999 (separated from RCD-Goma), led by Mbusa Nyamwisi and backed by the Ugandan army
UPDF	Uganda People's Defence Forces
HCHR	Office of the United Nations High Commissioner for Human Rights
MONUC	United Nations Organization Mission in the Democratic Republic of the Congo

United Nations S/2003/675

Security Council

Distr.: General
26 June 2003

Original: English

Report of the Secretary-General on the United Nations Interim Administration Mission in Kosovo

I. Introduction

1. The present report is submitted pursuant to Security Council resolution 1244 (1999) of 10 June 1999, by which the Council decided to establish the United Nations Interim Administration Mission in Kosovo (UNMIK) and requested the Secretary-General to report at regular intervals on the implementation of the mandate. It covers the activities of UNMIK and developments in Kosovo, Serbia and Montenegro since 1 April 2003.

II. Functioning democratic institutions

2. UNMIK continued to transfer non-reserved responsibilities listed in chapter 5 of the Constitutional Framework to the Provisional Institutions of Self-Government. The transfer of these responsibilities is being carried out at a pace that takes into account the capacity of the Provisional Institutions to assume additional responsibilities. The Transfer Council — set up by UNMIK and the Provisional Institutions to oversee, monitor and coordinate the transfer process — held its first meeting on 8 April and established three working groups on finance, recruitment and logistics; technical assistance; and monitoring and intervention. In the second meeting, on 28 May, the members agreed to the transfer of 19 non-reserved competencies, with a further 17 to be transferred as soon as the Provisional Institutions have the capacity to assume them. The Transfer Council also agreed to return eight competencies to its three working groups for further consideration. Kosovo Serb representatives did not participate in either meeting of the Transfer Council.

3. The Government of Kosovo took 27 policy decisions, including 12 related to legislation, from 1 April to 16 June 2003. This is a slight increase in the average number of policy decisions per month relative to the first three months of 2003 and a significant increase in the proportion of those having legal implications. The Government also established a Commission for Cooperation with the International Tribunal for the Former Yugoslavia. An increasing number of governmental policy decisions are prepared by Kosovo civil servants and coordinated through the weekly meetings of the Permanent Secretaries, now all Kosovo civil servants, or through ad hoc or structural inter-ministerial working groups. As the involvement in the decision-making process becomes more inclusive and transparent, there is a higher degree of ownership by the Kosovo civil servants in the decisions taken. However,

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approximately half of the items on the government agenda continued to lack fundamental background documentation or contained documentation in only one of the official languages, namely Albanian. Government ministers have, however, been increasingly proactive in explaining the laws and their purpose to the relevant Assembly committees. Inter-ministerial communication and coordination has improved with the setting up of two Inter-Ministerial Working Groups on Gender Equality and Disabilities by the Office of the Prime Minister.

4. The Assembly of Kosovo has held nine plenary meetings since 1 April, with all political groups present. The Kosovo Serb caucus — Coalition Return (KP) — participated in all the plenary meetings. However, Coalition Return members walked out of a plenary session on 15 May during the discussion on the resolution on "war values". They returned for the rest of the session after the resolution was passed. Coalition Return also left the 5 June Assembly session in protest of the triple murder on 4 June of elderly Kosovo Serb residents in Obilic municipality, although it has since decided to continue its participation in the Provisional Institutions.

5. The Assembly made progress in adopting and forwarding legislation to my Special Representative for promulgation. The four laws, which had been returned to the Assembly for revision since they were not fully compliant with resolution 1244 (1999) and the Constitutional Framework, have been promulgated. Two of the four laws — on external trade activity and on telecommunications — were revised by the Assembly to take into account the changes required by UNMIK, following consultations between UNMIK and the Assembly in accordance with a special procedure suggested by the Assembly President. The remaining two laws — on higher education and on public financial management and accountability — were promulgated with adjustments introduced under the authority of my Special Representative. The Assembly had previously adopted a draft law on education, which did not include compromise language addressing minority rights in the field of education recommended by a special panel that had been seized of the matter in accordance with the Constitutional Framework (see S/2002/1126, para. 4, and S/2003/421, para. 5). The Law on Higher Education, as promulgated by my Special Representative, now contains a section reflecting the recommendation of this special panel. The Government has undertaken to implement all these laws, including those with changes introduced by UNMIK. The Kosovo Assembly adopted six other laws in 2003, although one is deemed to be outside its area of competence, that is, on immovable property taxes. My Special Representative has promulgated a total of nine Assembly laws so far this year. The Assembly, in a special procedure, also reviewed and agreed to the Provisional Criminal Code and the Provisional Criminal Procedure Code, which, as reserved competencies, will be issued as UNMIK Regulations.

6. On 15 May, however, the Assembly endorsed a controversial resolution on the liberation war of the people of Kosovo for freedom and independence. My Special Representative issued a declaration stating that the text of the resolution was divisive and contrary to the spirit of resolution 1244 (1999). In addition, following consultation with my Special Representative, the hosts of three international meetings withdrew invitations to attend these meetings, which had previously been extended to the Provisional Institutions. On 24 April, the Assembly also discussed and endorsed an initiative that instructed an "appropriate body" to draft a law on elections, even though election matters are outside its competence.

7. The functional committees of the Assembly also held regular meetings. The newly established Media Committee elected a chairperson from the Kosovo Serb caucus, bringing the number of Kosovo Serb-chaired committees to four out of a total of 19. There continues, however, to be a lack of effective minority community participation in the legislative process. Very few legislative initiatives have been proposed by any of the Assembly representatives and by non-Kosovo Albanian representatives. Very few of the approved amendments to Assembly legislation have originated with non-Kosovo Albanian deputies; although rare, amendments suggested by the Committee on the Rights and Interests of Communities were usually approved.

8. In contrast to the Kosovo Assembly, policy-making and legislative development in the municipal assemblies has been slow. Almost all of the municipalities were still primarily concerned with hiring municipal civil servants and setting up municipal committees. In more than half of the municipalities, non-compulsory committees have either not been set up or do not meet; only four municipalities currently have an adequate number of functioning committees. In addition, in about one third of the municipalities, signs of increasing politicization of the civil service recruitment process continued. Some elected municipal representatives have refused to participate in Assembly meetings and committee work owing to their disappointment with the recruitment process and/or seat allocation in the committees. In two municipalities, the budget has still not been approved and in three municipalities there is political gridlock because of the refusal of the major Kosovo Albanian parties to cooperate with each other. UNMIK will consider taking executive action in these municipalities if the stalemate is not resolved, in accordance with chapter 8 of the Constitutional Framework.

9. The functioning of mixed Kosovo Serb-Kosovo Albanian municipal administrations varied considerably. While there was a reasonable level of cooperation in the municipal administrations in Kamenica, Gnjilane, Novo Brdo, Strpce (Gnjilane region) and Kosovo Polje (Pristina region), Kosovo Serbs have been hesitant to take up municipal positions in Vitina (Gnjilane region), owing to repeated security incidents, and in Lipljan (Pristina region). A major political hurdle was overcome in Novo Brdo, where the local branch of the Democratic Party of Kosovo (PDK) decided to join the Kosovo Serb-majority Municipal Assembly. Kosovo Serbs played a constructive role in creating a positive environment for both PDK and the Democratic League of Kosovo (LDK) to join the Municipal Assembly. Many members of LDK and PDK who had earlier refused to take the oath in this municipality have now applied for positions in the local administration.

10. The administrative development of some Provisional Institutions and municipalities remained hampered by the continued operation of Belgrade-supported parallel administrative structures in some parts of Kosovo. Efforts to strengthen such institutional links have been most evident in the health and education sectors. UNMIK is in the process of developing a comprehensive action plan to address parallel structures.

11. In northern Mitrovica, UNMIK has appointed an eight-member Advisory Board, consisting of six Kosovo Serbs, one Kosovo Albanian and one Bosniak. The Board's objective is to help communicate the concerns of residents in northern Mitrovica, who are primarily Kosovo Serbs, to the UNMIK Administration. The Board held its first meeting on 30 May, with the participation of all representatives.

During the meeting, however, the Kosovo Serb representatives objected to the Board's composition. The Kosovo Albanian Mitrovica Municipal President has also expressed his reservations regarding the Board's establishment and functions.

12. The Mitrovica Joint Support and Advisory Team has met five times since 3 April, bringing together the Kosovo Albanian Municipal Education Director and his Kosovo Serb counterpart from the northern part of the town to discuss teacher training for Kosovo Serb education staff. For the past three months, UNMIK has also held weekly meetings of the Mitrovica municipal directors and their counterparts in the UNMIK Administration in northern Mitrovica in the fields of education, health and economic development, including urban planning, industrial zones, agriculture and business development. In addition, meetings have taken place between the fire brigades, the regional water companies and the telecommunications providers in the north and south of the city. The two telecommunications providers have been working together to reconnect customers in minority areas, both Kosovo Serb and Kosovo Albanian.

13. The Council of Europe has continued its work in developing a concept for sustainable reform of local self-government, based on the principles of the European Charter of Local Self-Government. This work, which centres on the need to decentralize decision-making and service delivery, is being carried out in consultation with representatives of the Provisional Institutions, local party leaders and community representatives. The Council of Europe mission is currently deciding which of the five options it has identified would be the most effective. The options range from creating a role for sub-municipal units to strengthening the regional level of local government centred around five to seven urban centres. The mission will present a detailed interim report outlining its recommendations to the Council of Europe on 27 June.

14. There are still no comprehensive figures for the participation of vulnerable groups, minorities and women in the civil service. Overall, minority representation in the Kosovo ministries is estimated to be about 10 per cent. However, this falls to only 1.3 per cent at management levels. The affirmative action plan known as "Community Proportional Representation", which was approved in principle last year by my Special Representative and the Office of the Prime Minister, has yet to be implemented. However, the Office of the Prime Minister has continued to promote minority recruitment through its Outreach Programme. It has succeeded in increasing the number of applications; however, it has so far failed to extend this programme to the other ministries. The employment of minorities in most of the publicly owned and socially owned enterprises remained unsatisfactory; however, the two major publicly owned enterprises, the Kosovo Electricity Company (KEK) and the Post and Telecommunications Company of Kosovo (PTK), have begun to increase the percentage of minority-community staff they employ: 1.2 per cent of the 9,000 KEK employees and nearly 8 per cent of the 2,000 PTK staff are currently from minority communities. Representational ranges for each municipality are still under development; based upon existing overall data, 85.7 per cent of all municipal employees are Kosovo Albanian, 11 per cent are Kosovo Serbs and the remaining 3.2 per cent are non-Serb minorities.

15. On average, the proportion of women in the Kosovo civil service is around 40 per cent at the central level. The newly established Inter-Ministerial Working Group on Gender is considering the employment of gender advisers within each ministry

with a view to, inter alia, initiating programmes for the further promotion of female participation within the ministries. Progress has also been noted in the promotion of gender equality bodies in municipal governance. Seven additional Gender Equality Committees have been established in the municipalities since April. These committees consist mainly of Municipal Assembly members and civil society representatives.

16. Civic education continued at all Albanian-language lower secondary schools; however, the curriculum dates back to the 1995/96 school year. The Ministry of Education, Science and Technology is in the process of developing new civics curricula, to be introduced in schools in September 2003. Civic education is also taught in Serbian-language schools. While all history textbooks (including Serbian-language books) were screened for inflammatory content by an UNMIK-coordinated consortium of experts in 1999, the contents and tone of some Albanian-language textbooks were recently found to be contrary to the principles of developing a multi-ethnic civil society. The Kosovo Ministry of Education is proceeding with measures to eliminate inflammatory and/or emotive material from these history textbooks.

17. The Government is currently finalizing the law on the establishment of the Independent Media Commission, an independent media regulatory body, for submission to the Assembly. Although the journalistic standards in the majority of newspapers remain generally acceptable, some newspapers continue, on occasion, to publish libellous or inciting articles, despite having been warned or fined on previous occasions for such practice. The Temporary Media Commissioner has closed five of the seven cases where complaints were brought against local newspapers and only a small percentage of outstanding fines remains to be collected. No complaints have been filed against broadcasters. Following an intervention by the Commissioner, an apology was addressed to the readers by a newspaper that had published an advertisement commissioned by an ethnic Albanian extremist group.

III. Rule of law

18. Crime rates continue to decrease as the Kosovo Police Service (KPS) becomes more effective. Overall, the crime statistics for the first five months of 2003 showed a continued decrease of serious crimes in Kosovo; however, serious incidents, including murder, continued to take place. The police now receive approximately 1,000 telephone calls per month from people providing information about crimes. However, there have been incidents directed against police and international staff. On 31 May, an explosive device was thrown at Kosovo Force (KFOR) guards in Urosevac; five people, including one KFOR soldier, were injured. On the same day, a KPS vehicle, carrying three Kosovo Serb police officers, was shot at in Novo Brdo; there were no injuries. On 8 May, close to Leposavic, nine shots were fired at an UNMIK Police vehicle; no injuries occurred.

19. While general crime statistics are encouraging, incidents of violence and crimes against minorities continued to be a cause for concern. Three Kosovo Serb residents in Obilic municipality (Pristina region) were murdered in the early morning of 4 June. UNMIK has taken a number of concrete steps to find and bring the perpetrators of this crime to justice, including the establishment of a nine-member Special Police Squad to investigate the crime, working with special

advisers from the Kosovo Serb and Kosovo Albanian communities. UNMIK Police and KFOR have also put in place additional patrols and other security measures such as vehicle checks and increased community policing. Representatives of the Provisional Institutions and Kosovo Albanian and Kosovo Serb leaders have all condemned the murders. The Kosovo Serb former deputy mayor of Klokot was shot dead on 19 May. Among other incidents in the same area, two elderly Kosovo Serbs were assaulted. Incidents of harassment and intimidation directed against minorities continued throughout Kosovo.

20. On 12 April, an explosion caused serious damage to a railway bridge in northern Kosovo, cutting off railway traffic to central Serbia. Two individuals (one of whom was a member of the Kosovo Protection Corps (KPC)), who were reportedly involved in planting the bomb, were killed in the incident. An ethnic Albanian extremist group has claimed responsibility for this attack. Three individuals, including one KPC member, have been detained in connection with the incident. On 17 April, my Special Representative issued an Administrative Direction, pursuant to UNMIK Regulation No. 2001/12 on the Prohibition of Terrorism and Related Offences, determining that this ethnic Albanian extremist group is a terrorist organization as defined by the regulation.

21. Progress has been made in the prosecution of serious criminal acts such as terrorism and war crimes. Panels composed of a majority of international judges heard the first two cases relating to allegations of terrorist activities pursuant to UNMIK Regulation No. 2001/12. Several investigations of allegations of terrorist activities, all conducted by international judges, are also ongoing. In addition, there are three ongoing trials involving allegations of war crimes. Witness protection, however, remains an issue. On 14 April, a Kosovo Albanian who was one of the main prosecution witnesses in the trial of five members of the former Kosovo Liberation Army, was killed in a roadside ambush.

22. One of the main areas of organized criminal activity is prostitution and trafficking in human beings. From 1 January to 26 May 2003, the Trafficking and Prostitution Investigation Unit, consisting of UNMIK Police and KPS officers, arrested a total of 49 people. Since 1 April, eight additional cases of trafficking have been uncovered and 33 establishments or premises have been closed. A shelter to provide interim accommodation and assistance services to victims of trafficking in Kosovo was opened on 16 June. The Mission's Kosovo Organized Crime Bureau (KOCB) continued to develop its operational and investigation capabilities. Plans are under way to develop an organized crime unit, composed of KPS officers, to work in coordination with, and under the supervision of, KOCB. The UNMIK Police have also included KPS in the Counter-Terrorism Task Force, with one KPS officer in each region. The Financial Investigation Unit has conducted its first major search and seizure operation, following an investigation of corrupt practices in a telecommunications public enterprise.

23. The local judiciary continued to deal with 100 per cent of civil and 97 per cent of criminal cases. At present, there are a total of 359 local judges, 46 local prosecutors and 1,337 local court support staff. In the local judiciary, Kosovo Serbs represent 4.8 per cent of all judges and other minorities, including Turkish, Bosniak and Roma, 5.4 per cent. There is only one Kosovo Serb prosecutor and three from other minority communities. Women presently constitute approximately 23.6 per cent of the total judiciary. There are now 260 private defence lawyers who can be

appointed by the courts to assist defendants who cannot afford legal counsel. There are, however, no public defenders employed by the Kosovo Government. There are also 15 international judges and 10 international prosecutors serving in the local justice system who handle approximately 3 per cent of criminal cases. Local judges have increasingly taken responsibility for serious cases pending in the Kosovo courts. As a result, there has been an increasing involvement by international judges in trial panels with a majority of local judges. For example, of the 15 trials under way in the Kosovo District Courts involving international judges, seven are being held before panels, which only include one international judge.

24. Progress continued in developing KPS. An additional police station is now under KPS management in Stimlje (Pristina region), bringing the total number of stations under KPS management to four. An additional eight stations are scheduled for transition to KPS management during 2003. UNMIK Police maintain a monitoring and advisory role at these stations and authority remains with my Special Representative in accordance with chapter 8 of the Constitutional Framework. The operating costs for these four stations are now financed through the Kosovo consolidated budget.

25. The ethnic and gender composition of KPS has remained well balanced. As of 18 June 2003, a total of 5,407 officers were serving with KPS and 4,067 were serving as UNMIK Police officers. One UNMIK Special Police Unit was repatriated during the period under review. Of all the KPS officers, Kosovo Albanians comprised 84.26 per cent, Kosovo Serbs 9.51 per cent and other non-Serb minorities 6.24 per cent; 15.29 per cent of KPS personnel were women. At present, of the 328 KPS officers in supervisory ranks, Kosovo Serbs comprise 7.9 per cent and other minorities 4.9 per cent; women represent 9.45 per cent. There are currently 195 cadets in training, including 63 Kosovo Serb. KPS Human Resources supervises the standards of police recruits and promotions and ensures a balanced ethnic and gender composition. An analysis of applications at the recruitment stage demonstrates the challenges associated with building a well-balanced KPS. Of a total of 72,283 applicants to the KPS School since it opened on 6 September 1999, 91.4 per cent have been Kosovo Albanian and only 5.7 per cent Kosovo Serbs; women represent 7.6 per cent of the total applicants.

26. The Kosovo Correctional Service has a staff of 1,352, of which 86.2 per cent are Kosovo Albanian, 11 per cent Kosovo Serb, 2.8 per cent non-Serb minorities and 18 per cent women. The Penal Management Division plans to increase the total number of staff to 1,688 in order to meet the requirements of the growing prison population and the two new prisons at Lipljan and the additional house block that is being built at Dubrava prison. As of the end of May, the prison population stood at 1,203; it is estimated that by 2006 the prison population will grow to between 1,800 and 2,000. Both the Lipljan Correctional Centre (Pristina region) and the Dubrava Prison (Pec region) now provide psychiatric care to prisoners.

27. UNMIK Police continued to build working relations with their Serbian counterparts pursuant to the Protocol on Police Cooperation signed with the Republic of Serbia and the then Federal Republic of Yugoslavia on 31 May 2002. Further to this agreement, UNMIK Police recently established a third subcommission, on organized crime and terrorism in March 2003. Similarly, police cooperation pursuant to an exchange of letters with the former Yugoslav Republic of Macedonia on 27 November 2002 is expanding through regular contacts and

meetings to facilitate the exchange of information on such issues as borders, organized crime and terrorism. Plans to establish closer cooperation between UNMIK, the former Yugoslav Republic of Macedonia and Albania in the fight against terrorism and extremism were supported by the representatives of these delegations at the 22 May Ohrid Conference on Border Control and Management.

IV. Freedom of movement

28. The civil service bus line, funded from the Special Representative's contingency allocation in the Kosovo consolidated budget, continued to operate, bringing Kosovo Serbs and other minority civil servants to work in Pristina; many are also provided with transport directly by their employers. Of 30 municipalities, only 7 provide transport for minority staff members, 3 of which only do so for teachers and health workers; 2 have conditions allowing the free movement of minorities; and 2 municipalities do not employ minority staff. The UNMIK Humanitarian Transport Service continued to transport a monthly average of 30,000 to 35,000 passengers, mainly Kosovo Serbs. In addition to its daily operation within Kosovo, the service increased the number of connections with onward means of transportation to central Serbia.

29. Despite the relative success of the Kosovo Force's visible escort reduction policy in Kosovo, approximately 15 per cent of the total humanitarian bus service network is still escorted by KFOR or UNMIK Police. These escorts are provided between locations which are still considered volatile. Initially, when the security escort reduction policy was implemented, a significant decrease in the number of passengers was registered. This trend, however, was short-lived and the volume of passengers now exceeds previous levels.

30. The UNMIK "Freedom of Movement" train has expanded its area of operation to include Gracanica, the largest Kosovo Serb-majority area in central Kosovo. Numbers of passengers have, however, decreased since the discontinuation of escorts inside the trains. Many passengers have complained about threats, harassment and intimidation occurring on the trains. The increased use of alternative means of transport, such as private cars, might also account for the decrease. The "Nis Express" was discontinued owing to a sharp decline in the number of passengers.

31. Regardless of the measures taken in favour of minority residents, freedom of movement remained difficult, in particular for the Kosovo Serb community. The explosion, which damaged a railway bridge in Zvecan on 12 April, and the triple murder in Obilic on 4 June will compound the problem by contributing to an increasingly negative perception of security conditions for free movement. Freedom of movement has also been hampered by the decision of the Serbian Government authorities not to sign an agreement on the use of Kosovo licence plates in Serbia proper and by their public calls for Kosovo Serbs not to register their cars with UNMIK. As a result, only 18 vehicles have been registered in northern Mitrovica since the beginning of the process on 29 April. The Mission's vehicle registration campaign in minority areas has also recorded unsatisfactory results. Of the 3,612 vehicles registered by 16 May, Pristina region accounted for 75.4 per cent of the total, followed by Strpce municipality with 6.9 per cent. In contrast, hardly any

registrations have been recorded in the Pec region and only a few dozen in the Gnjilane region.

32. On 13 May, UNMIK and the former Yugoslav Republic of Macedonia reached an agreement on the mutual recognition of vehicle insurance. Accordingly, vehicles with Kosovo licence plates can now travel freely in the former Yugoslav Republic of Macedonia under a single, comprehensive insurance policy. On 22 May, UNMIK and the former Yugoslav Republic of Macedonia also completed an exchange of letters addressing the practical modalities associated with the opening of two temporary local crossing points between Kosovo and the former Yugoslav Republic of Macedonia for local residents.

V. Sustainable returns and minority rights

33. As previously reported, a comprehensive and coordinated framework to support minority returns is in place. During the first five months of 2003, a total of 437 Kosovo Serbs, 330 Roma/Ashkali/Egyptians, 133 Bosniaks, 31 Gorani and 61 Kosovo Albanians returned to areas where they are a minority. The total number of minority returns so far this year exceeds the number in 2002. This is attributable to the improving weather conditions, the enhanced engagement by local authorities and representatives of the internally displaced in the returns process, and the improving structures to facilitate returns. However, there has not been a substantial increase in the overall numbers of minority returns, particularly of Kosovo Serbs. Returns of Kosovo Serbs — in both organized projects and individually — remain at a proportionally lower level than those of other minority groups, owing to both objective and perceived differences in the security risks they face in Kosovo. The murders in Obilic are a serious setback in UNMIK efforts to create conditions for the return of persons to areas where they are a minority, particularly for Kosovo Serbs.

34. Returns issues are increasingly being dealt with effectively at the municipal level, with encouraging signs in terms of the allocation of municipal funds and the engagement of municipal authorities in returns activities. Local authorities currently work on returns through established Municipal Working Groups in all but two of the municipalities, although the extent and level of their participation varies significantly. In 14 municipalities, Municipal Assembly Presidents or Vice-Presidents are actively and constructively working alongside representatives of the displaced community to support returns; in the other 14 municipalities, local authorities are involved, but further commitment is required.

35. Additional steps at both the municipal and central levels, however, are required. While the Prime Minister has continued to demonstrate support for minority rights and returns projects, other prominent officials of the Provisional Institutions have not shown the same level of engagement or visibility. Moreover, the initiative for returns-related activities still rests primarily with the international community, with little spontaneous involvement in these issues by the Provisional Institutions. At the central level, the office of the Inter-Ministerial Coordinator for Returns was expanded to include two additional local professional staff, but the integration of the office's work within the Provisional Institutions remains unsatisfactory. The Ministry of Finance and Economy is currently considering the possibility of directing surplus funds from the 2002 Kosovo consolidated budget to

priority returns needs. If carried out, this would constitute an important shift by the Provisional Institutions from symbolic support for minority returns to concrete investment in the process. To date, while several municipalities have provided concrete support, such as road or water supply improvement in areas in which returns projects are being implemented, no minority returns projects have received direct funding from the Kosovo consolidated budget.

36. Donor pledges for returns projects are beginning to be fulfilled, although a substantial shortfall remains, with only 55 per cent of returns projects funded and a gap of 72 per cent in funding for the United Nations Development Programme-UNMIK Rapid Response Returns Facility, established on 3 June, with the cooperation of the Office of the United Nations High Commissioner for Refugees, which provides housing assistance and socio-economic support to individual returns. Given the demand-driven nature of the returns process, the rapidly expanding number of minority returns projects in development or under way is indicative of a growing interest in returns among the displaced. That demand, however, relates not only to new opportunities for returns to Kosovo, but also to the continuing hardships faced in displacement.

37. A review of "fair-share financing" from municipal budgets reflected a slight and promising improvement. This improvement is all the more notable in that additional compliance measures have been introduced. This is largely attributable to the mandatory requirements contained in the Kosovo consolidated budget and to related enforcement mechanisms. Thus far, five municipalities — Leposavic, Novo Brdo, Pristina, Orahovac and Zvecan — have achieved fair share financing on the three budget lines (wages/salaries, goods and services; health; and education) assessed by UNMIK. Six municipalities have done so in two out of three budget lines and 12 in one budget line. The municipalities of Zubin Potok, Kosovo Polje, Suva Reka and Dragas have not achieved the minimum required allocation even in one budget line.

38. Efforts to encourage integration within the educational system continue to encounter substantial resistance from all sides. There are currently 42 mixed or shared schools, although only eight of these schools house both Kosovo Serb and Kosovo Albanian children (five in Gnjilane, two in Lipljan and one in Orahovac). All 39 Turkish language and Bosniak language schools offer Albanian language as a subject for Bosnian and Turkish students. No schools in the Kosovo Serb or Roma communities offer classes in the Albanian language; schools in the Kosovo Albanian communities do not offer classes in the Serbian language.

39. Minority community members remain unable to use their own language and alphabet throughout Kosovo freely, including in the Provisional Institutions, municipalities and other public bodies. The translation of official municipal publications into all required languages occurs on a regular basis in only seven municipalities. Translation on a limited basis, very often only after a specific request, takes place in 10 municipalities. In 13 municipalities, copies of documents are only provided in the Albanian language. Official signs are reportedly bilingual in only six municipalities; they are only partly bilingual in 13 municipalities, although the Serbian language on these signs has usually been blacked out; and in 14 municipalities there is zero compliance with the requirement to post bilingual signs.

40. Implementation of the debt-forgiveness scheme for indigent electricity service customers has progressed with the collection and consideration of claims in virtually

all municipalities where KEK operates. In order to facilitate greater participation by minority communities in the scheme, the deadline for filing of claims will be extended until the end of August or mid-September 2003. UNMIK is also working with KEK to implement a new policy that will ensure that displaced persons whose homes have been illegally occupied are not held responsible for outstanding debts accrued during their absence.

41. Throughout Kosovo, community dialogue initiatives on issues such as particular returns efforts, village development projects and inter-ethnic tolerance and integration, are occurring. Local non-governmental organizations are becoming increasingly engaged in these projects, a step that is likely to enhance further the success of such initiatives. At the same time, the number of organizations involved in these activities and their relatively piecemeal nature make it difficult to assess whether these programmes are effectively building tolerance at a more global level within Kosovo. To address this concern, a working group of the Advisory Board on Communities is surveying existing dialogue programmes, with the goal of ensuring a more comprehensive and systematic approach to this work in future.

VI. Economy

42. Kosovo continued to make significant progress in developing an economic legislative framework. On 15 April, my Special Representative promulgated the Law on Bankruptcy, which had been adopted by the Kosovo Assembly. Laws on Public Financial Management and Accountability, on External Trade and on Telecommunications, initially adopted by the Assembly in December 2002, were promulgated on 12 May following necessary adjustments to bring them into conformity with resolution 1244 (1999) and the Constitutional Framework.

43. The Economic and Fiscal Council met once since 1 April and discussed, inter alia, the mid-year review process and the funding priority list for the 2002 budget surplus, the fiscal report for March 2003, the status of implementation of the Free Trade Agreement with the former Yugoslav Republic of Macedonia and the draft regulation amending UNMIK regulations in reference to the Central Fiscal Authority. The first round of discussions on a Free Trade Agreement between the Republic of Albania and UNMIK took place on 22 April; an agreement was reached on a framework text and the next round of discussions is planned for the end of June.

44. There have been encouraging signs that Kosovo consolidated budget funds are increasingly generated through internal taxation. The level of voluntary compliance with tax laws — income tax, profit tax, presumptive tax and internal value added tax — has increased owing to the increased capacity of, and number of audits by, the Tax Administration, which is responsible for the implementation and collection of these taxes in order to ensure such compliance. During April and May, the Tax Administration analysed and reconciled the annual tax returns for the 2002 financial year for income and profit taxes. For the profit tax, 1,722 tax returns were filed (which equates to 90 per cent of enterprises registered for profit tax) and the sum of €5.5 million was generated. For the personal income tax, 9,879 employers filed for €4.7 million. Progress has also been made in the fields of anti-corruption, regulation of utilities and auditing.

45. Budget revenues collected from January until May 2003 totalled €174 million (including customs revenue), which corresponds to 34 per cent of the 2003 budget

projections. The positive trend of increasing the share of domestic revenue in comparison to revenue collected at the border continued. Internal taxes accounted for 19 per cent of total revenue in the first quarter of 2003; however, the revenue from both internal and border taxes is subject to change according to seasonal factors. Developments show that the revenue regime is achieving self-reliance in sustaining recurrent public expenditures while providing scope for limited capital expenditures.

46. From 1 January to 1 June, the UNMIK Customs Service collected €150 million in revenue, which is an 11 per cent increase in collections for the same period last year. The rate of detection and interdiction of smuggling offences increased, with enhanced "stop and search powers", and has produced additional revenue as well as a large number of seizures from vehicles illegally crossing the administrative boundary line with Serbia proper. By the end of June, the Customs Service will have increased in size from 415 to 454 staff members (of which 14 per cent are non-Kosovo Albanian).

47. The privatization process has now entered its operational phase. On 9 May, my Special Representative promulgated Regulation No. 2003/13 on the Transformation of the Right of Use to Socially Owned Immovable Property (commonly referred to as the "land use" regulation). This regulation converts the land use rights held by socially owned enterprises into 99-year leaseholds, which can be freely transferred and used as guarantees for securing credits without affecting the underlying ownership title. On 15 May, the Board of the Kosovo Trust Agency (KTA) announced the first six tenders for the privatization of socially owned enterprises. A second group of 12 socially owned enterprises to be tendered for privatization has been prepared by KTA. Any Government, person or entity that asserts that their rights have been adversely affected by the privatization process may submit an appeal to the Special Chamber of the Supreme Court, which has the power for final adjudication of claims, including payment of compensation, from the proceeds of the privatization to claimants whose rights the Special Chamber finds have been violated by the privatization process. The Special Chamber was operational as of 16 June, with three international judges and two local judges. The rules of procedure and directives for claimants wishing to institute proceedings were signed and promulgated on 16 June 2003. Accordingly, public notice has been issued that the Chamber will be able to accept claims.

48. The operation and revenue of the main public utilities providers continued to suffer from high numbers of illegal or unregistered customers. Since 1 January, 66 per cent of all power delivered by KEK has been billed, of which only 57 per cent has been collected. This resulted in a loss of approximately €41 million. Efforts are currently under way to remedy the situation through, inter alia, the introduction of standardized electricity meters, the identification of illegal connections and a "pay for performance" media campaign. For the same time period, public utility providers in the water and waste sectors averaged a billing rate of 83 per cent, with only 53 per cent collected. The post and telecommunications public enterprise has the highest success rate of all the public utility providers, with 100 per cent of all customers billed between January and April and a collection rate of 82 per cent.

49. The Stabilization and Association Process Tracking Mechanism (STM) has begun to play a prominent role in furthering general economic development and structural reforms in Kosovo, as well as in ensuring compatibility with European

standards and best practices. The next meeting of STM is expected to take place on 1 July and will cover selected chapters of Justice and Home Affairs, Media, Telecommunications and Transport.

VII. Property rights

50. The final deadline for submission of claims to the Housing and Property Directorate has been extended by a further month to 1 July 2003. By 1 June, the Directorate received 27,700 claims, of which approximately 13.7 per cent have been resolved, at a rate of approximately 1,000 per month. The next bimonthly session of the Housing and Property Claims Commission, scheduled for the end of June, is expected to resolve a further 2,600 claims and bring the total to over 6,000 claims resolved. The rate of reconsideration of requests for Housing and Property Claims Commission decisions remained at the low level of 3 per cent.

51. In over 75 per cent of cases where property claims have been registered, the Directorate has now notified the purported illegal occupant. The Directorate conducted 400 evictions from 1 April to 15 June. There were two incidents involving threats against staff of the Directorate; on both occasions the evictees were arrested and prosecuted. The destruction of properties following the eviction of illegal tenants remained a serious problem; over the last three months, 12 houses were destroyed. The Directorate currently has approximately 2,500 properties under its administration. The Directorate has initiated a process aimed at involving the municipalities in the management of these properties: this has already been established in the Pristina, Mitrovica and Gnjilane regions. As part of its mandate, the Directorate has also started a survey of abandoned properties.

VIII. Dialogue with Belgrade

52. A meeting of the UNMIK-Serbia and Montenegro High-Ranking Working Group, requested by Belgrade, did not take place owing to preconditions set by the Belgrade delegation before discussion of topics on the official agenda began. As a result, the protocol on the recognition of Kosovo licence plates, referred to earlier, was not signed. This contributed to the creation of a climate that was not conducive to direct dialogue on practical matters between the Kosovo Provisional Institutions and Belgrade. Recently, however, leaders in Belgrade and Pristina have accepted that dialogue on practical issues should begin. My Special Representative discussed the prospect of direct talks with the Serbian Prime Minister, who supported the initiation of talks.

53. Limited, working-level contacts have, however, taken place between representatives of the Provisional Institutions and their Serbian counterparts. In the field of transport and communications, the Permanent Secretary and a department head of the Kosovo Ministry of Transport and Communications met with their Serbian counterparts on the occasion of the Regional Balkan Infrastructure Study meeting in Skopje. They have agreed to discuss further cooperation on the transport of passengers and goods. Regular working contacts in the field of the return of internally displaced persons between the Provisional Institutions, namely the Inter-Ministerial Coordinator on Returns, and Belgrade officials and Serbian refugee councils continued. Cooperation continued in the field of culture; the second

meeting of the Working Group on Cultural Issues, comprising representatives from the Serbian Ministry of Culture and the Kosovo Ministry of Culture, Youth and Sports, took place in May and made progress on issues of preservation of cultural heritage and the return of documentation. Constructive cooperation at the working level between UNMIK and the Belgrade authorities also continued in such areas as police cooperation, cross-boundary repatriation of human remains and exchange of experts and expertise on missing persons. On an ad hoc basis there has been cooperation with Serbian experts on the phenol pollution of the Sitnica River and on the damage assessment of the bombed Zvecan railway bridge.

54. The United Nations Liaison Office in Belgrade and the UNMIK Liaison Office in Belgrade will merge, effective 1 July 2003. The United Nations Office in Belgrade, which will come into effect on 1 July, will retain the reporting and liaison functions of both offices.

IX. Kosovo Protection Corps

55. As a result of the suspected involvement of members of the Kosovo Protection Corps in terrorism and organized crime, particularly since the 12 April bombing of the railway bridge in Zvecan, a travel ban was imposed on KPC members in order to avoid the risk that members associated with extremist organizations might be sent on training missions abroad. The travel ban has since been lifted on a case-by-case basis. A special UNMIK/KFOR Board has been set up to coordinate action against suspected extremist infiltration into KPC. An investigation into the 12 April bombing confirmed that one of the perpetrators who was killed while planting the bomb was a KPC member with ties to an extremist Albanian group that my Special Representative has determined to be a terrorist organization. Another KPC member has been arrested as a suspect in this case. This association has dealt a further blow to the organizations' image as a civil emergency force. After discussing a wide range of possible measures to take against KPC by my Special Representative and the KFOR Commander, the decision was made to demand that KPC should disclose the names of other KPC members who might be associated with this terrorist organization. So far, KPC has only disclosed one name. There is now an ongoing joint UNMIK-KFOR investigation, which aims to identify KPC personnel with links to terrorist organizations, illegal activity and organized crime. This investigation is expected to take three weeks.

56. KPC continued to undertake the necessary restructuring and skill development and training for its members. The strength of KPC currently stands at 2,954 active members (of a total of 3,052 authorized) and 1,740 reserved (of a total of 2,000 authorized). Little progress has been made in addressing property and infrastructure issues; however, the head of KPC has recently submitted a plan to achieve the necessary reductions. The rate of non-compliance with the KPC Disciplinary Code as well as Kosovo laws and regulations is more or less stable in comparison with previous years, with only about 20 per cent of non-compliance cases originating from KPC. However, there has been a marked increase in KPC control of attendance since mid-April and this has resulted in a substantial number of cases.

57. Efforts continued to increase the number of minority KPC members. Minority involvement in KPC still remains minimal despite public statements by KPC leaders and efforts to rectify the situation. Over the past few months, the Kosovo Albanian

head of KPC had several meetings with local Kosovo Serb leaders in Strpce (Gnjilane region), members of the Ashkali community and the UNMIK Office of Returns and Communities to discuss how to improve the integration of Kosovo Serbs and other minorities into KPC. Thirteen Serbs, two Turks, two Croats and one Ashkali have joined, or are in an advanced stage of recruitment into KPC — the Kosovo Serbs despite calls by some representatives of the Serbian leadership in Belgrade and Kosovo Serb leaders for them not to do so. Over 30 per cent of positions set aside for minorities have been filled, although minority members are not present in the higher ranks.

X. Support matters

58. The UNMIK Division of Administration continued to provide the logistical support necessary for the Mission to fulfil its mandate. The Division of Administration continued its close coordination with UNMIK police in the transition of police matters from UNMIK budgetary and logistical support to the Kosovo consolidated budget. The Communications and Information Technology Sections have been combined into one section, thereby increasing efficiency and facilitating a more integrated service to customers.

59. UNMIK will continue to implement its downsizing strategy in view of the budget for the fiscal year 2003-2004, beginning 1 July, which provides for $315 million for the expenses of the Mission. UNMIK planning has been developed in a manner that will ensure that, as non-reserved responsibilities are transferred at the central and local levels, the Mission will retain an overall capacity, in all areas, effectively to exercise its authority under resolution 1244 (1999) and to discharge its powers and responsibilities, including those in the Constitutional Framework. In the transferred areas, UNMIK will retain sufficient staff to have the capacity to oversee or advise the Provisional Institutions and municipalities, as well as intervene when necessary, to ensure that these bodies exercise their responsibilities in compliance with resolution 1244 (1999) and the Constitutional Framework. This has led to an internal reallocation and reduction in some cases of human, financial and logistical resources from areas.

XI. Observations

60. Four years into the Mission's mandate, Kosovo has made significant progress in achieving substantial autonomy and self-government, as required under resolution 1244 (1999); however, major challenges remain. In addressing these challenges, working towards the benchmarks set out by my Special Representative within the framework of the "standards before status" policy remains the guiding principle for the current phase of UNMIK activities.

61. The ongoing transfer to Kosovo's Provisional Institutions of additional responsibilities set out in chapter 5 of the Constitutional Framework is a mechanism for achieving progress against the benchmarks, while also ensuring that the Provisional Institutions are full participants in the process and assume full responsibility for transferred areas of administration. The Transfer Council is proving to be a useful forum for structured discussion and decision on how best to move the transfer forward. Cooperation between UNMIK and the Provisional

Institutions in the context of the Transfer Council has on the whole been concrete and constructive; however, Kosovo Serb representatives in the Provisional Institutions have so far chosen not to attend meetings of the Transfer Council. The transfer of responsibilities is proceeding in a phased manner, so as to ensure that Kosovo's Provisional Institutions have the capacity to assume additional non-reserved responsibilities and are held accountable for delivering effective administration to Kosovo's population in those areas. The transfer process does not affect the powers and responsibilities reserved for my Special Representative in accordance with chapter 8 of the Constitutional Framework, or the overall authority of UNMIK and KFOR under resolution 1244 (1999).

62. The transfer process has also enabled Kosovo's Provisional Institutions to focus in a more effective manner on what is realistically achievable. Kosovo's Government has shown greater emphasis on the implementation of its responsibilities under the Constitutional Framework and Kosovo's Assembly has shown a greater readiness to engage in constructive cooperation with UNMIK, with a view to adopting legislation that is acceptable for promulgation by my Special Representative. However, the Kosovo Assembly continues, on occasion, to show a tendency to go beyond its prescribed institutional role as a legislative body and to adopt positions on symbolic matters, which are clearly beyond the scope of its competencies under the Constitutional Framework. The Assembly's endorsement of a resolution on "war values", which was highly divisive in nature, hinders efforts at cooperation among political representatives of Kosovo's communities in the Provisional Institutions.

63. Although there are encouraging signs of a growing readiness on the part of Kosovo's leaders to back minority returns publicly, much remains to be done to ensure that this commitment translates into concrete backing and support of the returns process throughout Kosovo's Provisional Institutions. This backing should take the form of concrete funding from Kosovo's consolidated budget for activities related to returns and the Provisional Institutions need to ensure that legislation and administrative implementation fully take into account the needs of those wishing to return and, of course, all people in Kosovo regardless of their ethnicity. While some sensitivity to the needs of minorities is beginning to be shown at the central level, where more international pressure is evident, the real challenge lies with the municipalities in areas such as fair-share financing, political participation and language use. At the same time, as inter-ethnic dialogue initiatives and the passage of time seem to be yielding some results, increased levels of inter-ethnic contact provide more opportunities for friction. The process of return and reintegration can be successful and sustainable only if coupled by a genuine willingness on the part of the majority community and minority communities to work together. The continued and strengthened support and funding by the international community for returns to Kosovo is important to ensure that this process moves forward.

64. Establishing the rule of law remains a central challenge for UNMIK, with an increasing focus on the fight against organized crime and terrorist activities. While UNMIK has moved to consolidate Kosovo's law enforcement and judiciary structures, incidents such as the multiple murder in Obilic and the explosion at the railway bridge in Zvecan underscore the continuing threats to the normalization of society and the process of reconciliation among communities. Such acts of violence are unacceptable. Kosovo's leaders and its population must act decisively and concretely to ensure that they do not recur.

65. The process of normalization in Kosovo also depends on the development of a sustainable foundation for economic growth and development. Against this background, UNMIK continues its efforts to create the basis for a sustainable economy, one that is closely connected with those of the rest of the region. In this context, a carefully managed and well-regulated privatization process can provide a solid basis for Kosovo's economic recovery and development.

66. As UNMIK implements its mandate and steers the political process in accordance with resolution 1244 (1999), it faces increasing and competing political pressures. Unilateral calls from Kosovo Albanians, Kosovo Serbs and Belgrade for mutually exclusive approaches to Kosovo's future have continued. Such calls do not contribute to reconciliation and inter-ethnic dialogue. On the one hand, the Kosovo Albanian leadership continues to call for an accelerated path towards Kosovo's independence. On the other hand, Belgrade continues to seek co-governance with UNMIK and, in lending support to parallel structures, supports the boycott of UNMIK policies and programmes. Such public positions do not address the practical realities and challenges faced in normalizing the society in Kosovo and providing for the well-being of its people. Indeed, they can have a detrimental effect on Kosovo's continued progress forward by entrenching mutually exclusive positions and thus undermining opportunities for dialogue and reconciliation.

67. Therefore, I welcome the recent indications that leaders in Pristina and Belgrade are prepared to begin a dialogue on practical issues and I encourage the parties to do so in a genuinely constructive manner, with a view to creating a climate conducive to the implementation of the mandate set out in resolution 1244 (1999). The international community's ongoing support is indispensable for such a dialogue to succeed.

68. UNMIK will continue to focus on the implementation of the mandate, in line with the "standards before status" policy, and on ensuring that all developments in Kosovo remain within the framework of resolution 1244 (1999) and the Constitutional Framework, as well as all applicable law.

69. In conclusion, I would like to express my appreciation for Michael Steiner's contribution to United Nations endeavours in Kosovo and the progress achieved during his tenure, and to the men and women of UNMIK for their commitment and professionalism in carrying out their duties. I would also like to express my appreciation to our partners within UNMIK, the European Union and the Organization for Security and Cooperation in Europe, as well as KFOR, and to the organizations, agencies, contributors and donors for their substantial political and material support in implementing resolution 1244 (1999).

Annex I

A. Composition and strength of the UNMIK Police as at 18 June 2003

Country	*Number*	*Country*	*Number*
Argentina	139	Malaysia	46
Austria	44	Mauritius	5
Bangladesh	74	Nepal	38
Belgium	1	Nigeria	86
Bulgaria	96	Norway	19
Cameroon	20	Pakistan	194
Canada	14	Philippines	62
Czech Republic	16	Poland	124
Denmark	28	Portugal	20
Egypt	62	Romania	175
Fiji	31	Russian Federation	126
Finland	24	Senegal	16
France	78	Slovenia	15
Germany	355	Spain	16
Ghana	31	Sweden	42
Greece	20	Switzerland	11
Hungary	5	Tunisia	6
India	475	Turkey	165
Italy	56	United Kingdom of Great Britain	
Jordan	418	and Northern Ireland	133
Kenya	44	United States of America	476
Kyrgyztan	4	Ukraine	185
Lithuania	8	Zambia	6
Malawi	21	Zimbabwe	37
		Total	**4 067**

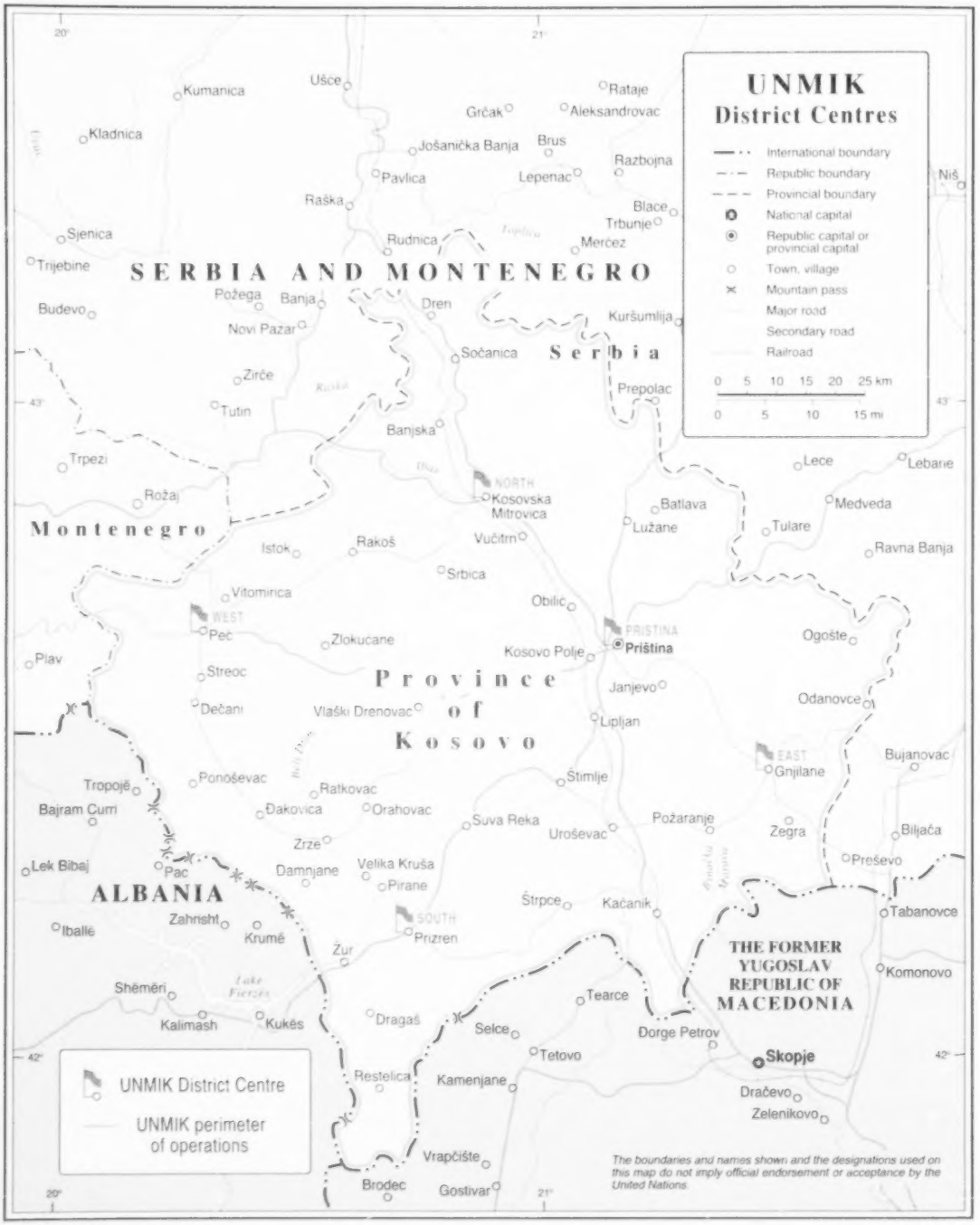
B. Composition of the Kosovo Police Service as at 18 June 2003

Category	*Percentage*	*Number*
Kosovo Albanians	84.26	4 387
Kosovo Serbs	9.51	495
Other ethnic minority members	6.24	325
Total		**5 207**
Men	84.71	4 411
Women	15.29	796

Annex II

Composition and strength of the Military Liaison Component of the United Nations Interim Administration Mission in Kosovo (as at 20 June 2003)

Nationality	*Number of liaison officers*
Argentina	1
Bangladesh	1
Belgium	1
Bolivia	1
Bulgaria	1
Chile	1
Czech Republic	1
Denmark	1
Finland	2
Hungary	1
Ireland	3
Italy	1
Jordan	1
Kenya	1
Malawi	1
Malaysia	1
Nepal	2
New Zealand	1
Norway	2
Pakistan	1
Poland	1
Romania	1
Russian Federation	2
Spain	2
Switzerland	1
Ukraine	2
United Kingdom of Great Britain and Northern Ireland	1
United States of America	2
Zambia	1
Total	**38**



Map No. 4133 Rev. 12 UNITED NATIONS
June 2003

Department of Public Information
Cartographic Section

United Nations S/2003/676

Security Council

Distr.: General
27 June 2003

Original: English

Letter dated 25 June 2003 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I write with reference to my letter of 9 April 2003 (S/2003/420).

The Counter-Terrorism Committee has received the attached supplementary report from the Kingdom of Tonga, submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I would be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Inocencio F. **Arias**
Chairman
Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

03-41383 (E) 030703

Annex

Letter dated 20 June 2003 from the Permanent Representative of Tonga to the United Nations addressed to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

With reference to your letter dated 9 April 2003 (S/2003/420), I have the honour to attach the supplementary report of the Kingdom of Tonga, submitted pursuant to paragraph 6 of resolution 1373 (2001), on the steps taken to implement that resolution (see enclosure).

The Kingdom of Tonga stands ready to submit any further information requested by the Counter-Terrorism Committee on the Kingdom's implementation of resolution 1373 (2001).

(*Signed*) S. T. T. **Tupou**
Ambassador Extraordinary and Plenipotentiary

Enclosure

Supplementary report of the Kingdom of Tonga to the Counter-Terrorism Committee, pursuant to paragraph 6 of resolution 1373 (2001)*

Sub-paragraph 1(a)

The CTC would be grateful if Tonga could provide copies of the relevant provisions of the Criminal Offences (Amendment) Bill 2002 that deal with the requirements of the resolution.

1. A copy of this Bill is attached as an annex to this report.

Sub-paragraph 1(b)

In view of the fact as stated in the report that the Privy Council has approved Tonga becoming a party to the International Convention for the Suppression of the Financing of Terrorism, the CTC would be grateful to know how Tonga proposes to implement the Convention:

2. Overall the domestic legislation in Tonga has incorporated most of the important provisions pointed out in the Suppression of the Financing of Terrorism, however the Government's Committee on Money Laundering and Financing of Terrorism Activities is currently working on proposed new legislation and amendments to bring our legislative framework into line with international best practice.

The CTC would like to draw the attention of Tonga to sub paragraph specifically criminalizing the wilful provision or collection of funds, financial assets or economic resources by its nationals and or entities in its territory, by any means, directly or indirectly, with the intention that they should be used in order to carry out terrorist acts. For an act to constitute an offence as described above it is not necessary that the funds etc are actually used, to carry out a terrorist offence (see article 2, paragraph 3 of the International Convention for the Suppression of Terrorism). The acts sought to be criminalized are thus capable of being committed even if:

- ***The only terrorist act takes place or intended to take place or intended to take place outside the country;***
- ***No related related terrorist act occurs or is attempted;***
- ***The funds are of legal origin.***

The Criminal Offences (Amendment) Act 2002 seems to refer to only related offences and not financing of terrorism per se. The CTC would be grateful to know what steps Tonga intends taking in this regard.

3. Given it's size and resource base, the concerns with regards to financing of terrorism are covered under the provisions of the Criminal Offences Act (Cap. 18) and other supporting legislation to deal with the financing of terrorism. Further the Committee on Money Laundering and Financing of Terrorism Activities is also looking at other legislative amendments and new legislation to further assist with the full implementation of this paragraph.

* The annexes are on file with the Secretariat and are available for consultation.

Sub-paragraph 1(c)

This sub paragraph requires inter alia that state freeze without delay funds of persons both resident and non resident individuals and entities who commit or attempt to commit, participate or facilitate the commission of terrorist acts. It should be noted that for this purpose funds and other resources need not be the proceeds of crime and could be of legal origin and yet used for terrorism either within or outside Tonga. As stated in paragraph 24 of the report the current provisions of the Money Laundering and Proceeds of Crime Act 2000 seem to cover only those resources that are being imported into or exported from Tonga and is of restricted scope. The CTC would be obliged to know how Tonga proposes to implement the requirement of this sub-paragraph fully.

4. There is a general power of the Supreme Court to freeze and confiscate any funds related to crime or used in any force regardless of the sources. Work is also being undertaken to review the provisions of the Money Laundering and Proceeds of Crime Act 2000 with a view to proposing amendments to ensure full compliance with this paragraph.

Sub-paragraph 1(d)

Effective implementation Paragraph 1 of the Resolution and of the Convention for the Suppression of the Financing of Terrorism would require the obligation to report suspicious transactions to be extended to other professions engaged in financial transactions besides financial institutions and cash dealers as required at present under the Money Laundering and Proceeds of Crime Act 2000. The CTC would be content to know the steps proposed to be taken by Tonga in this regards.

5. The Committee on Money Laundering and Financing of Terrorism Activities is addressing this issue.

In addition to what is stated above there is also a need to register the religious, cultural, educational and other non governmental institutions and audit the collection and use of funds and other resources by them to ensure that their resources are not diverted to uses other than intended purposes in particular to terrorist purposes. Could Tonga please indicated what mechanism it has to achieve this objective or in the absence of which hat Tonga proposes putting in place.

6. Religious, cultural, educational and other non-governmental institutions are required to be registered for tax purposes, and are registered either as a Charitable/Non Profit Organisation under the Charitable Trusts Act 1993 or a business/commercial enterprise under the Companies Act 1995. They are required to file tax returns which includes audited accounts, and which can form the basis for an assessment as to whether resources are diverted to uses other than intended purposes and in particular terrorist purposes. In addition the Ministry of Police also undertakes surveillance of various activities undertaken in the country.

Sub-paragraph 2 (a)

The CTC notes that Tonga in its report does not clearly state that recruitment to terrorist groups either inside or outside Tonga, is prohibited or criminalized by law. As this is a requirement of this sub paragraph could Tonga please explain how the requirement has been met or in its absence how Tonga proposes to meet the requirement.

7. Part II of the Criminal Offences Act (Cap. 18) deals with these various issues including, inter alia, abetment, harbouring criminals and conspiracy. Section 8 of the Act reads as follows:

"Every person who directly or indirectly commands, incites, encourages or procures the commission of an offence by any other person and every person who knowingly does any act for the purpose of facilitating the commission of an offence by any other person is an abettor and shall (unless otherwise expressly specified by any enactment)

(a) where the offence is actually committed in pursuance or during the continuance of such abetment be liable to the same punishment as if he himself had actually committed that offence; and

(b) where the offence is not actually committed shall be liable where the offence abetted was murder to imprisonment for life or any less period and in the case of abetment of any other offence to imprisonment for a period not exceeding one half of the longest period to which a person committing that offence might be sentenced or to a fine not exceeding one half of the maximum fine which a person committing that offence might be sentenced to pay."

8. Section 12 of the Act reads as follows:

"Every person who counsels, incites or procures another to commit an offence is a party to every offence which that other commits in consequence of such counselling, inciting or procuring and which the person counselling, inciting or procuring knew or ought to have known would be likely to be committed in consequence of such counselling, inciting or procuring."

9. Section 13 of the Act reads as follows:

"Every person who knowing or having reason to believe that any person has

(a) committed an offence; or
(b) been charged by an prosecuting authority with any offence; or
(c) been issued with a summons by any court in respect of any offence; or
(d) been remanded for or is awaiting trial in any court in respect of any offence; or
(e) been convicted of any offence;

does without lawful authority or reasonable excuse any act with intent to impede his apprehension, prosecution or the execution of the sentence is guilty of an offence and is liable on conviction to indictment to imprisonment for any period not exceeding 3 years."

10. Section 15 of the Act reads as follows:

"(1). If 2 or more persons agree to act together with a common purpose in order to commit or abet an offence whether with or without any previous concert or deliberation each of them is guilty of conspiracy to commit or abet that offence as the case may be.

(2) If 2 or more persons are guilty of conspiracy to commit or abet any offence each of them shall in case the offence is committed be liable to be punished as if he had actually committed that offence or shall in case the offence is not committed be punished as if he had abetted that offence."

Sub-paragraph 2(b)

It is stated in the report that there are bilateral and multilateral relationships for cooperation with other countries. The CTC would be grateful if Tonga could provide a list of countries with which it has

bilateral and multilateral relationships and a brief description of the areas of cooperation dealt with by the agreements with the relevant countries.

11. Tonga has established a working relationship with many of the countries it has established diplomatic ties with including New Zealand, Australia, United States, United Kingdom. At the regional level there is cooperation and participation in specialist regional intergovernmental bodies such as Oceania Customs Organisation (OCO), Pacific Islands Law Officers Meeting (PILOM), the Pacific Immigration Directors Conference (PIDC) and the South Pacific Chiefs of Police (SPCP).

Please explain how early warning of any anticipated terrorist activity is provided to other member countries.

12. There are several methods whereby early warning of any anticipated terrorist activity can be provided to other member countries: firstly through the contacts with the Ministry of Police and Interpol, or through diplomatic channels.

Sub-paragraph 2(c)

Sub-paragraph 2 (d)

Sub-paragraph 2 (e)

What is the competence of courts of Tonga to deal with criminal acts of each of the following kinds:

- ***An act committed outside Tonga by a citizen of Tonga, or by a person habitually resident in Tonga (whether that person is currently present in Tonga or not);***
- ***An act committed outside Tonga by a foreign national who is currently in Tonga?***

13. In both cases, the jurisdiction of the Courts in Criminal matters is limited to Tonga's boundaries. However both cases can be dealt with by extradition and upon request from a foreign country.

Sub-paragraph 2 (f)

Please give an outline of the legal provisions and procedures in regard to the provisions of assistance in criminal investigations and judicial proceedings as contained in Tonga's mutual assistance legislation, referred to in paragraph 53 of the report.

14. Part II of that Act details the legal provisions and procedures in regard to the provisions of assistance in criminal investigations and judicial proceedings. Section 4 of the Act on the authority to make and act on mutual assistance requests reads as follows:

> "(1) The Attorney General may make requests on behalf of Tonga to a foreign State for mutual assistance in any investigation commenced or proceeding instituted in Tonga, relating to any serious offence.
>
> (2) The Attorney General may, in respect of any request from a foreign State for mutual assistance in any investigation commenced or proceeding instituted in that State relating to a serious offence:
>
> (a) grant the request, in whole or in part, on such terms and conditions as he thinks fit;

(b) refuse the request, in whole or in part, on the grounds that to grant the request would be likely to prejudice the sovereignty, security of Tonga or would otherwise be against the public interest; or

(c) after consulting with the appropriate authority of the foreign State, postpone the request, in whole or in part of the ground that granting the request immediately would be likely to prejudice the conduct of an investigation or proceedings in Tonga.

(3) Requests on behalf of Tonga to foreign States for assistance shall be made only by or with the authority of the Attorney General."

15. Section 6 on mutual legal assistance requests by Tonga reads as follows:

"The requests which the Attorney General is authorised to make under section 4 are that the foreign State:

(a) have evidence taken, or documents or other articles produced in evidence in the foreign state;

(b) obtain and execute search warrants or other lawful instruments authorising a search for things believed to be located in that foreign State, which may be relevant to investigations or proceedings in Tonga;

(c) seize anything found during a search under paragraph (b);

(d) locate or restrain any property believe to be the proceeds of crime located in the foreign state;

(e) confiscate any property believed to be located in the foreign State, which is the subject of a confiscation order made under the Money Laundering and Proceeds of C ime Act 2000;

(f) transmit to Tonga any such confiscated property or any proceeds realised therefrom, or any such evidence, documents, articles or things;

(g) transfer of custody to Tonga a person detained in the foreign State who consents to assist Tonga in the relevant investigation or proceedings;

(h) provide any other form of assistance in any investigation commenced or proceeding instituted in Tonga, that involves or is likely to involve the exercise of a coercive power over a person or property believed to be in the forc ign State; and

(i) permit the presence of nominated persons during the execution of any request made under this Act."

16. Section 7 on the contents of requests for assistance reads as follows:

"(1) A request for mutual assistance shall:

(a) give the name of the authority conducting the investigation or proceeding to which the request relates;

(b) give the description of the nature of the criminal matter and a statement setting out a summary of the relevant facts and laws;

(c) give a description of the purpose of the request and of the nature of the assistance being sought;

(d) in the case of a request to restrain or confiscate assets believed on reasonable grounds to be located in the requested State, give details of the offence in question, particulars of any investigation or proceeding commenced in respect of the offence, and be accompanied by a copy of any relevant restraining or confiscation order;

(e) give details of any procedure that the requesting State wishes to be followed by the requested State in giving effect to the request, particularly in the case of a request to take evidence;

(f) include a statement setting out any wishes of the requesting State concerning any confidentiality relating to the request and the reasons for those wishes;
(g) give details for the period within which the requesting State wishes the request to be complied with;
(h) where applicable, give details of the property to be traced, restrained, seized or confiscated, and of the grounds for believing that the property is believed to be in the requested State;
(i) include an agreement on the question of the payment of the damages or costs of fulfilling the request; and
(j) give any other information that may assist in giving effect to the request.

(2) A request for mutual assistance from a foreign State may be considered but shall not be granted by the Attorney General until the request complies with subsection (1)."

17. Section 8 on foreign requests for an evidence gathering order or a search warrant reads as follows:

"(1) Notwithstanding anything contained in any other law for the time being in force, where the Attorney General grants a request by a foreign State to obtain evidence in Tonga, an authorised officer may apply to the Supreme Court for:

(a) a search warrant; or
(b) an evidence gathering order.

(2) The Supreme Court to which an application is made under subsection (1) shall issue an evidence gathering order or a search warrant under this subsection, where it is satisfied that there are reasonable grounds to believe that:

(a) a serious offence has been or may have been committed against the law of the foreign State; and
(b) evidence relating to that offence may :

(i) be found in any place in Tonga; or
(ii) be able to be given by a person believed to be in Tonga;

Provided that, in the case of an application for a search warrant, it would not in all the circumstances, be more appropriate to grant an evidence gathering order.

(3) For the purposes of the subsection (2) (a), a statement contained in the foreign request to the effect that a serious offence has been or may have been committed against the law of the foreign State is prima facie evidence of the fact without proof of the signature or official character of the person appearing to have signed the statement.

(4) An evidence gathering order:

(a) shall provide for the manner in which the evidence is to be obtained in order to give proper effect to the foreign request, and in particular, may require any person named in the order to:

(i) make a record from data or make a copy of a record;
(ii) attend before a Judge of the Supreme Court to give evidence on oath or otherwise until excused;
(iii) produce to the Supreme Court or to any person designated by the Court, any thing, including any document, or copy of a document; or

(iv) may include such terms and conditions as the Supreme Court considers desirable, including those relating to the interests of the person named therein or of third parties.

(5) A person named in an evidence gathering order may refuse to answer a question or to produce a document or thing where the refusal is authorised by:

(a) a law of Tonga;
(b) a privilege recognised by a law in force in the foreign State that made the request, and
(c) a law currently in force in the foreign State that would render the answering of that question or the production of that document or thing by that person in its own jurisdiction an offence.

(6) Where a person refuses to answer a question or to produce a document or thing pursuant to subsection (5) (b) or (c), the Supreme Court shall adjourn the proceedings and report the matter to the Attorney General who shall notify the foreign State and request the foreign State to provide a written statement on whether the person's refusal was well founded under the law of the foreign state;

(7) Any written statement received by the Attorney General from the foreign State in response to a request under subsection (6) is admissible in the evidence gathering proceedings, and for the purposes of this section is conclusive of whether the person's refusal is well founded under the foreign law.

(8) A search warrant shall be in the usual form in which a search warrant is issued in Tonga, varied to the extent necessary to suit the case.

(9) The Attorney General shall not order any document or thing seized to be sent to a foreign State until he is satisfied that the foreign State has agreed to comply with any terms or conditions."

18. Section 9 on foreign requests for consensual transfer of detained persons reads as follows:

"(1) Where the Attorney General approves a request of a foreign State to have a person, who is detained in custody in Tonga by virtue of a sentence or order of a court, transferred to a foreign State to give evidence or assist in an investigation or proceeding in that State relating to a serious offence, an authorised officer may apply to the Supreme Court for a transfer order.

(2) The Supreme Court may make a transfer order under this subsection where it is satisfied, having considered any documents filed or information given in support of the application, and having heard the detained person, that the detained person consents to the transfer.

(3) A transfer order made under subsection (2):

(a) shall set out the name of the detained person and his current place of confinement;
(b) shall order the person who has custody of the detained person to deliver him into the custody of a person who is designated in the order or who is a member of the class of persons so designated;
(c) shall order the person receiving him into custody to take him to the foreign State and, on return of the detained person to Tonga, to return the detained person to a place of confinement in Tonga specified in the order;
(d) shall state the reasons for the transfer; and

(e) shall fix the time at or before the expiration of which the detained person must be returned, unless varied by the Attorney General.

(4) The time spent in custody by a person pursuant to a transfer order shall count toward any sentence required to be served by that person, so long as the person remains in custody."

Sub-paragraph 2 (g)

The CTC would be grateful for an outline of the changes that the new Immigration legislation proposes to introduce and how it would help Tonga in the better implementation of the Resolution

19. There are several areas which the current Immigration legislation does not specifically refer to and which will be addressed in the new Immigration legislation including: the creating of the offence and penalties for people smuggling, people trafficking. In addition there is a need to strengthen the provisions for removing people from Tonga.

Sub-paragraph 3(a) and 3 (b)

The CTC would be grateful to have a brief description of the arrangements that Tonga has at the bilateral, regional and multilateral level for the exchange of operational information.

20. At the bilateral level, Tonga has established working relationship for the exchange of operational information on immigration, criminal activities (Police); financial institutions with countries such as the United States, Australia, New Zealand.

21. At the regional level, there are established contacts through the SPCP for criminal matters; OCO with regards to customs related matters and PIDC with regards to immigration matters.

22. At the international level, there is Interpol.

Sub-paragraph 3(c)

Sub-paragraph 3(d)

This sub paragraph requires states to become parties as soon as possible to the relevant international conventions and protocols relating to terrorism. It is noted from paragraph 82 of the report that currently Tonga is a party to only three of the 12 international Conventions and Protocols and Approval has been granted to Tonga to become a party to the rest of the International Instruments relating to terrorism to which it is not yet a party to. The CTC would be obliged to have a progress report on Tonga becoming a party to the rest of the Conventions and protocols to which it is yet to be a party and for which it has received the approval.

23. Please refer to the table below as to Tonga's status with respect to the twelve international instruments on terrorism:

Terrorism Conventions	Date of Ratification or Accession
Convention on Offences and Certain Other Acts Committed on Board Aircraft 1963	13 February 2002
Convention for the Suppression of Unlawful Seizure of Aircraft 1970	22 February 1977

Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation 1971	22 February 1977
Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents 1973	9 December 2002
International Convention against the Taking of Hostages 1979	9 December 2002
Convention on the Physical Protection of Nuclear Material 1980	24 January 2003
Protocol on the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation 1988	10 December 2002
Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation 1988	6 December 2002
Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf 1988	6 December 2002
Convention on the Marking of Plastic Explosives for the Purpose of Detection 1991	10 December 2002
International Convention for the Suppression of Terrorist Bombings 1997	9 December 2002
International Convention for the Suppression of the Financing of Terrorism 1999	9 December 2002

Sub-paragraph 3(e)

Sub-paragraph 3(f)

Sub-paragraph 4

Has Tonga addressed any of the concerns expressed in paragraph 4 of the Resolution?

24. As noted in the report, there are two conventions recommended:

(a) With respect to the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction 1992, Tonga became a party to this Convention on 29 May 2003.

(b) With respect to the United Nations Convention against Transnational Organized Crime and its three Protocols, consideration of these instruments is ongoing.

(c) Specific Provisions – FATF Special Recommendations:

(i) As to the ratification and implementation of UN instruments, Tonga has become party to the International Convention for the Suppression of Financing of Terrorism 1999 on 9 December 2002;
(ii) As to criminalising of financing of terrorism and associated money laundering, please refer to the replies to sub-paragraph 1 (above);
(iii) As to freezing and confiscating terrorist assets, please refer to the replies to sub-paragraph 1 (above);
(iv) As to reporting suspicious transactions related to terrorism, there have been no reports, to date, of suspicious transactions relating to terrorism;

(v) As to international cooperation, there is legislation in place for mutual assistance with regards to assistance at international level;

(vi) As to alternative remittances, work is currently being undertaken by the Committee on Money Laundering and Financing of Terrorism Activities on this specific provision;

(vii) As to wire transfers, measures are being undertaken and reviewed to ensure that financial institutions, including money remitters conduct enhanced scrutiny of and monitor for suspicious activity funds transfers which do not contain complete original information (name, address and account number); and

(viii) As to non-profit organisations, they are required to register under the Charitable Trusts Act 1993.

Other Matters

Could Tonga please provide full organizational chart of its administrative machinery, such as police, immigration control, customs, taxation and financial supervision authorities, established to give practical effect to the laws, regulations and other documents that are seen to be contributing to compliance with the Resolution.

25. This will be provided in due course.